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GREAT LAKES INTRA-BASIN TRANSFER APPLICATION UPDATE

The Environmental Services Committee recommends the adoption of the recommendations contained in the following report dated September 3, 2010, from the Commissioner of Environmental Services.

1. RECOMMENDATIONS

It is recommended that:

1. Staff report back to Regional Council in Winter 2011 on the ongoing activities concerning Intra-basin Transfer, including changes to the *Ontario Water Resources Act*, and implications for the Region.
2. The Regional Clerk forward copies of this report to the local municipalities and the Ministries of the Environment and Natural Resources.

2. PURPOSE

The purpose of this report is to provide an update to Regional Council on ongoing activities concerning Intra-basin Transfer and implications for the Region.

3. BACKGROUND

On December 18, 2008, Council endorsed actions of staff regarding submission of an Intra-basin Transfer application to the Province under the Great Lakes Charter: Principles for the Management of Great Lakes Water Resources (the “1985 Great Lakes Charter”). To meet growth demands, Lake Ontario-based drinking water is needed to provide water service to Aurora, Newmarket and East Gwillimbury.

In 2008, York Region submitted an application for Intra-basin Transfer to service growth in the Towns of Aurora, Newmarket and East Gwillimbury

The Region currently receives Lake Ontario water through supply agreements with Peel Region and the City of Toronto. Lake Simcoe watershed lies within the Lake Huron watershed, which encompasses local municipalities north of Aurora, and northern portions of Whitchurch-Stouffville and Township of King. Therefore, all Lake Ontario-based drinking supplies to Newmarket and Aurora (as well as future plans to use Lake Ontario-based drinking water supply for growth in the communities of Holland Landing, Queensville, and Sharon in the Town of East Gwillimbury) qualify as Intra-basin Transfers. Lake Ontario water is returned via the York Durham Sewage System and

Duffin Creek Water Pollution Control Plant creating a closed loop “accounting” of Lake Ontario’s water budget.

On December 3, 2008, York Region submitted a Permit To Take Water (PTTW) application under the 1985 Great Lakes Charter for Intra-basin Transfer of Lake Ontario-based drinking water to meet drinking water requirements to the year 2031 for this part of the Region. Key components include:

- Request for Intra-basin Transfer volume of 105 MLD from the Lake Ontario watershed to supply forecasted growth in the Lake Huron watershed to the year 2031
- Demonstration that the proposed Intra-basin Transfer accords with principles established by the *Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement*, signed by the Great Lakes states and provinces in 2005.

Province moves forward with York Region’s Intra-basin Transfer Application under the Great Lakes Charter

In November 2009, the Province agreed to facilitate the approval process for York Region’s PTTW Application under the Great Lakes Charter. As required under the Great Lakes Charter, the Region’s proposal underwent bi-national consultation, which was initiated April 9, 2010 and concluded on June 14, 2010.

4. ANALYSIS AND OPTIONS

York Region raises the bar with Intra-basin Transfer Proposal

York Region’s Intra-basin Transfer Proposal was recognized by the Province to be standard setting among Great Lakes Provinces and States with enhanced consultations with key stakeholders, a foundation built on Master Planning objectives in place for over 10 years and leadership in water conservation achievements and continuing commitments. With assistance from the Ministry of Natural Resources (MNR) and the Ministry of the Environment (MOE), York Region raised the bar for consultation with its Intra-basin Transfer Proposal.

Staff conducted interactive consultation sessions to present York Region’s Intra-basin Transfer Proposal to facilitate a comprehensive understanding and respond to any questions or concerns. Key stakeholders were provided an opportunity to request additional information and a website with easy access to supplemental documentation to York Region’s Intra-basin Transfer Proposal.

Positive comments received on York Region's Intra-basin Transfer Proposal

York Region's Intra-basin Transfer Proposal received unprecedented positive response on the thoroughness of the proposal and water conservation and efficiency measures (*Attachment 1*). Examples of comments received include:

"Excellent work...in preparing report, supporting materials and providing multiple opportunities to participate in consultation" – State of New York
"Quebec applauds the efforts and measures put forth in the Water for Tomorrow program" – Province of Quebec
"Pleased to see that the project has a robust water conservation program in place and planned for the future" – State of Illinois.

MNR decision finalized on York Region's Intra-basin Transfer Proposal

The Ministry of Natural Resources issued a letter to the Regional Body members detailing their decision that York Region's Intra-basin Transfer Proposal is consistent with the *Great Lakes Charter* and the spirit of the 2005 Agreement (*Attachment 2*). Up to a maximum of 105 million litres of water per day by the year 2031 will be permitted with the following conditions:

- Preparation, submission by April 2011 and implementation of a long term Water Conservation and Efficiency Strategy
- Monitoring and annual reporting of intra-basin transfer volumes, activities and achievements related to implementation of water conservation and efficiency measures
- Updating of Water Conservation and Efficiency Strategy every five years

Region awaiting related MOE approval for Intra-basin Transfer

Staff have requested that the MOE issue an independent PTTW so that the Region may maintain direct control of an intra-basin transfer and is not dependent on other municipalities to act on behalf of the interests of York Region residents. However, MOE senior staff have advised that there is currently no mechanism to issue York Region an independent PTTW for intra-basin transfer. Regulations governing intra-basin transfers are expected to be in place early in the year 2011.

Staff expect to receive a joint letter imminently from the MOE and MNR signalling successful completion of Prior Notice and Consultation under the Great Lakes Charter. This letter will reflect conditions applied to the approval of the Southeast Collector project that will require York Region to complete a Water Conservation and Efficiency Strategy for the entire Region.

Staff continue to press the MOE for an independent permit for the sole purpose of conducting intra-basin transfers.

5. FINANCIAL IMPLICATIONS

Development of York Region's Long Term Water Conservation Plan to meet conditions of the Southeast Collector will satisfy conditions of approval for York Region's Intra-basin Transfer Proposal in relation to water conservation and efficiency. More specifically, preparation, submission, implementation, reporting, and updating of a long term Water Conservation and Efficiency Strategy. Additional resources required to fulfill Southeast Collector conditions have been requested and approved.

To date, a temporary staff resource has been utilized to develop the necessary proposal materials and coordinate information gathering and distribution pertaining to the Intra-basin Transfer portfolio. The requirement for permanent staff resources will be assessed and requested as part of the 2011 budget to effectively coordinate any necessary activities resulting from this process including addressing Provincial requirements for Intra-basin Transfer in the long term.

6. LOCAL MUNICIPAL IMPACT

Approval of York Region's Intra-basin Transfer Proposal secures sufficient drinking water capacity to meet the approved growth demands of the Towns of Aurora, Newmarket and East Gwillimbury to the year 2031.

7. CONCLUSION

Given the variety of positive comments received from stakeholders on both the proposal and consultation process, York Region considers the Prior Notice and Consultation to be a success. Moving forward, York Region has a pressing need to provide a sustainable supply of drinking water to its communities. To do so, York Region requires direct control of its intra-basin transfer through an independent Permit To Take Water.

Staff will continue dialogue with the MOE to develop a solution that will give York Region autonomy over its water servicing associated with intra-basin transfer.

For more information on this report, please contact Laura McDowell, Director,
Environmental Promotion and Protection at (905) 830-4444 Ext. 5077.

The Senior Management Group has reviewed this report.

(The two attachments referred to in this clause are attached to this report.)

From: Knudson,Dean [NCR] [mailto:Dean.Knudson@ec.gc.ca]
Sent: May 28, 2010 3:56 PM
To: Great Lakes SWR Agreement (MNR)
Cc: Cobham,Steve [NCR]; Munroe,Darcee [NCR]
Subject: Comments on Ontario Proposal for Great Lakes Charter Prior Notice and Consultation

Dear Ms. Keyes:

Thank you for the opportunity to comment regarding the Prior Notice and Consultation on the Regional Municipality of York, Ontario proposal for an increased intra-basin water transfer under the *Great Lakes Charter*.

The project's consumptive uses (estimated at 0.2 m3/s) are not expected to have a negative impact on the level or outflow of Lake Ontario. However, I would note that water supplies to the entire Great Lakes basin have been lower than usual due to the mild winter and lack of precipitation. The levels of all the Great Lakes are below their respective averages (1918-2009) and we expect Lake Ontario to remain below its average for the foreseeable future. I hope that these considerations will be taken into account in the development and future operation of this project.

Yours sincerely,

Dean Knudson

Directeur général / Director General

Direction des Amériques / Americas Directorate

Direction générale des Affaires Internationales / International Affairs Branch

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Site Web / Website www.ec.gc.ca

June 3, 2010

MEMORANDUM TO:

**Jennifer Keyes
Manager
Great Lakes Water Policy Section
Biodiversity Section**

**SUBJECT: Prior Notice and Consultation on the Regional Municipality of
York, Ontario proposal for an increased Intra-basin Water
Transfer under the Great Lakes Charter**

The Aurora District, Ministry of Natural Resources (MNR) has reviewed the Prior Notice and Consultation on the Regional Municipality of York, Ontario proposal for an increased Intra-basin Water Transfer under the Great lakes Charter and offers the following comments:

1. The proposal indicates that the historical transfer of wastewater (annual daily average 42 MLD) from the Lake Huron (Lake Simcoe) watershed to the Lake Ontario watershed will not increase. Any additional growth in the communities currently involved with this historical transfer of wastewater will need to be serviced by Lake Ontario based drinking water. What is unclear from the information provided by York Region is the extent to which, if any, the existing local supplies from groundwater would be reallocated from well to well as part of the proposed increase Intra-basin Water Transfer. If reallocations are to occur, temporary for well maintenance or permanent, the implications on the Oak Ridges Moraine aquifer system would need to be addressed
2. In 2007, MNR/MOE provided comments regarding a proposed intra –basin transfer as it related to York Region's Holland Landing, Queensville Sharon Sanitary Sewer project. You may wish to refer to that correspondence to cross reference any comments or concerns that were raised at that time with this project.
3. If Great Lakes Water Policy Section has any specific questions related to natural heritage, species at risk or planning matters associated with this proposal please contact us and we would be pleased to answer any specific questions you may have.
4. Scott Bates, Water Budget Program Analyst, Surface Water Monitoring Centre, MNR may also be of assistance in reviewing this proposal as he may have reviewed the source water protection water budgets for this area.

Should you have any questions please contact the undersigned (905 713-7341) at this office.

Yours sincerely,


Robert Fancy
Water Resources Coordinator
Aurora District Office

Enclosures

CC: Paula Thompson, MNR Great Lakes and Water Policy Section,
Ken Cornelisse, MNR Southern Region @ Guelph District
Theresa Fancy, District Planner, MNR Aurora

Minnesota Department of Natural Resources

500 Lafayette Road • St. Paul, MN • 55155-40



Is Paula
filed

June 8, 2010

Jennifer Keyes, Manager
Great Lakes and Water Policy Section
Ontario Ministry of Natural Resources
300 Water Street,
Saint Peterborough, ON K9J 8M5

RE: REGIONAL MUNICIPALITY OF YORK DIVERSION PROPOSAL

Dear Ms. Keyes:

We received a copy of the proposal to increase the withdrawal and diversion of water from Lake Ontario for the community water supply needs of the Regional Municipality of York. The increased withdrawal of water from Lake Ontario will serve the future growth of the Regional Municipality of York and the water will be returned, minus the water consumed, to Lake Ontario. The State of Minnesota does not object to this proposal.

Thank you for submitting this proposal for regional review in keeping with the spirit of the Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement. Please contact Jim Japs at 651.259.5656 should you have any questions concerning these comments.

Sincerely,
DNR Waters

Kent Lokkesmoe, Director
Compact Designee for Governor Tim Pawlenty

c: Governor Tim Pawlenty - Attn: Brian LeClair
Commissioner Mark Holsten
David Naftzger, Council of Great Lakes Governors
Jim Japs, DNR Waters



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June 11, 2010

Jennifer Keyes
Manager, Great Lakes Water Policy Section
Ontario Ministry of Natural Resources
300 Water Street
Peterborough, Ontario K9J 8M5
Canada

Re: Ontario Proposal for Great Lakes Charter Prior Notice and Consultation, York Region Intrabasin Transfer

Dear Ms. Keyes:

Thank you for the opportunity to provide comments to Ontario on the York Region proposal for an intrabasin transfer under the provisions of the Great Lakes Charter Prior Notice and Consultation process and in the context of the Great Lakes – St. Lawrence River Basin Sustainable Water Resources Agreement (Agreement). I appreciate the process Ontario has provided to enable the Regional Body to understand and comment on the proposal. Specifically, the presentation to the Regional Body, the opportunity to request additional information, the response to comments, the characterization of the proposal in the context of the Agreement requirements relating to intrabasin transfers, and the webpage providing easy access to supplemental documentation have all been constructive and informative for our understanding and consideration of the proposal. The process provided by Ontario has also been helpful in considering the guidance drafted by the Rules and Procedures Committees of the Regional Body and Compact Council.

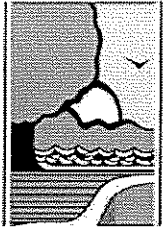
The proposal appears to address the Agreement's objectives to protect and conserve the waters and the water dependent natural resources of the Great Lakes Basin by requiring return flow for the intrabasin transfer, maximizing water conservation and efficient use of current and future water supplies in the York Region, and limiting groundwater usage in the region to sustainable levels.

Thank you for the opportunity to comment on this proposal.

Sincerely,

Matt Frank, Secretary

Cc: Governor Jim Doyle
Bruce Baker, WDNR Water Division Administrator
Rosalyn Lawrence, Ontario Ministry of Natural Resources



Illinois Department of Natural Resources

One Natural Resources Way Springfield, Illinois 62702-1271
<http://dnr.state.il.us>

Pat Quinn, Governor
Marc Miller, Director

June 14, 2010

Ms. Jennifer Keyes
Manager, Great Lakes and Water Policy Section
Ontario Ministry of Natural Resources
300 Water St., Peterborough, ON K9J 8M5

RE: Regional Municipality of York, ON proposal for an increased intra-basin water transfer

Dear Ms. Keyes:

Thank you for the opportunity to review and comment on the intra-basin water transfer proposal by the Regional Municipality of York. The State of Illinois appreciates the willingness of the Province of Ontario to submit this intra-basin water transfer proposal for prior notice and consultation even though the expected consumptive use in the year 2030 is below the trigger level of 19 million liters (5 million gallons) per day.

The State of Illinois has no objection to the province moving forward with this proposal. I was pleased to see that the project has a robust water conservation program in place and planned for the future. I encourage the province to work with the project sponsors to ensure that the forecasted water savings are achieved.

Sincerely,

Gary R. Clark, P.E.
Director, Office of Water Resources



Le 14 juin 2010

Madame Jennifer Keyes
Directrice, Section des politiques relatives aux Grands Lacs et aux eaux
Ministère des Richesses naturelles de l'Ontario
300, rue Water
Peterborough (Ontario) K9J 8M5

Madame la Directrice,

En tant que représentant du premier ministre du Québec, signataire de l'Entente sur les ressources en eaux durables du bassin des Grands Lacs et du fleuve Saint-Laurent, je vous remercie de m'avoir donné l'opportunité d'examiner et de commenter la proposition de projet de la municipalité régionale de York conformément aux dispositions de la Charte des Grands Lacs et de l'Entente sur les ressources en eaux durables du bassin des Grands Lacs et du fleuve Saint-Laurent.

Le gouvernement du Québec a procédé à l'examen de la proposition de projet en prenant en compte que si le chapitre 5 de l'Entente sur les ressources en eaux durables du bassin des Grands Lacs et du fleuve Saint-Laurent était en vigueur en Ontario, la proposition de projet de la municipalité régionale de York ne serait pas soumise à l'examen régional, mais plutôt à l'avis préalable donné aux parties conformément au paragraphe 2.b.iii de l'article 201 de l'Entente.

Le gouvernement du Québec reconnaît les efforts déployés pour montrer que la proposition de projet se conforme aux critères pertinents de l'Entente. Selon les renseignements contenus dans la proposition de projet, il appert que les quantités d'eau prélevées sont raisonnables et s'avèrent nécessaires pour les fins proposées. Sur le plan de la conservation et de l'utilisation efficace de l'eau, la proposition de projet démontre bien que les mesures prises sur le plan des approvisionnements existants ne permettent pas de combler la demande future en eau liée à la croissance démographique projetée d'où la nécessité du transfert d'eau intrabassin. Le gouvernement du Québec félicite les efforts et les mesures mis de l'avant dans le programme *Water for Tomorrow* afin de pérenniser les approvisionnements en eaux de la région de York, et souligne l'importance de poursuivre ces efforts dans le temps.

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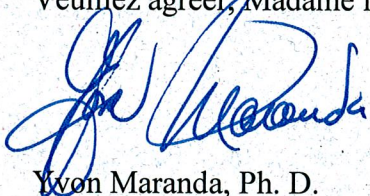
En ce qui concerne l'évaluation des impacts individuels de la dérivation intrabassin et de la consommation d'eau associée, le gouvernement du Québec, à la lumière des renseignements disponibles, accorde qu'il ne semble pas y avoir d'impacts significatifs pour le fleuve Saint-Laurent. Cependant, il importe que les connaissances et les méthodes d'évaluation dans ce domaine soient améliorées pour assurer une réelle prise en compte des impacts des prélèvements, consommations et dérivations d'eau sur les ressources du bassin des Grands Lacs et du fleuve Saint-Laurent.

Pour ce qui est de l'évaluation des impacts cumulatifs, le gouvernement du Québec comprend que l'état actuel des connaissances ne permet pas une évaluation adéquate de ces impacts. Cependant, le gouvernement du Québec réitère l'importance d'une telle évaluation.

C'est aussi l'occasion, pour les membres du Conseil régional des ressources en eau des Grands Lacs et du fleuve Saint-Laurent, de se rappeler la tâche tout aussi importante de consacrer temps et efforts pour développer une stratégie d'évaluation commune aux parties.

À la lumière des renseignements contenus dans la proposition de projet et compte tenu du délai accordé pour examiner la proposition de projet, le gouvernement du Québec considère que la proposition de projet de transfert intrabassin de la municipalité régionale de York respecte les principes de la Charte des Grands Lacs et les critères pertinents de l'Entente sur les ressources en eaux durables du bassin des Grands Lacs et du fleuve Saint-Laurent.

Veillez agréer, Madame la Directrice, mes salutations distinguées.



Yvon Maranda, Ph. D.

Représentant du premier ministre du Québec, vice-président du Conseil régional des ressources en eau des Grands Lacs et du fleuve Saint-Laurent

- c. c. M. Jean Charest, premier ministre du Québec, vice-président du Conseil régional des ressources en eau des Grands Lacs et du fleuve Saint-Laurent
M^{me} Madeleine Paulin, sous-ministre du Développement durable, de l'Environnement et des Parcs

COURTESY TRANSLATION

Ms. Keyes,

As designee of the Premier of Québec, signatory of the Great Lakes – St. Lawrence River Basin Sustainable Water Resources Agreement, I thank you for having given me the opportunity to review and comment on the proposal of the Regional Municipality of York in accordance with the provisions of the Great Lakes Charter and the Great Lakes – St. Lawrence River Basin Sustainable Water Resources Agreement.

The Government of Québec carried out the review of the proposal while taking into account that had Chapter 5 of the Great Lakes – St. Lawrence River Basin Sustainable Water Resources Agreement been in force in Ontario, the proposal the Regional Municipality of York would not have been subject to a regional review, but rather to prior notice given to parties in accordance with paragraph 2.b.iii of article 201 of the Agreement.

The Government of Québec recognises the efforts made to show that the proposal conforms to the relevant criteria in the Agreement. According to the information contained in the proposal, the quantities of water withdrawn are reasonable and prove necessary to the purposes for which it is proposed. In terms of water conservation and efficiency, the proposal clearly demonstrates that the measures taken in terms of the existing water supplies will not serve to meet future water demand given demographic growth projections, resulting in the necessity for an intra-basin transfer of water. The Government of Québec applauds the efforts and measures put forth in the *Water for Tomorrow* program that aims to sustain York Region's water supplies, and underlines the importance of continuing with these efforts into the future.

With regards to the individual impacts assessment of the intra-basin diversion and associated consumptive use, the Government of Québec, in light of the information available, deems it does not appear there would be any significant impacts on the St. Lawrence River. However, it is important that knowledge and assessment methods in this area be improved in order to ensure a realistic taking into account of impacts of withdrawals, consumptive use, and water diversions on the resources of the Great Lakes and St. Lawrence River Basin.

As for the cumulative impacts assessment, the Government of Québec understands that current knowledge does not allow for an adequate assessment of these impacts. However, the Government of Québec reiterates the importance of such an assessment. This is also an opportunity for all members of the Great Lakes – St. Lawrence River Water Resources Regional Body to keep in mind the equally important task of investing time and effort in the development of a common assessment strategy for the parties.

In light of the information contained in the proposal, and given the time allowed for review of the proposal, the Government of Québec deems the intra-basin transfer proposal in the

Regional Municipality of York in accordance with the principles of the Great Lakes Charter and the relevant criteria of the Great Lakes – St. Lawrence River Basin Sustainable Water Resources Agreement.

With our very best regards,

Yvon Maranda, Ph.D.

Designee of the Premier of Québec, Vice-President of the Great Lakes – St. Lawrence River Water Resources Regional Body

c: Jean Charest, Premier of Québec, Vice-President of the Great Lakes – St. Lawrence River Regional Body
Madeleine Paulin, Deputy Minister of Développement durable, de l'Environnement et des Parcs

ONTARIO FEDERATION OF ANGLERS & HUNTERS



Ontario Conservation Centre

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OFAH File: 333A
June 14, 2010

Ms. Jennifer Keyes
Manager, Great Lakes and Water Policy Section
Ministry of Natural Resources
300 Water Street
Peterborough, Ontario
K9J 8M5

Dear Ms. Keyes:

Subject: Regional Municipality of York's Proposal for an Increased Intra-basin Transfer

The Ontario Federation of Anglers and Hunters (O.F.A.H.), is Ontario's largest nongovernment fish and wildlife conservation organization with 100,000 members, subscribers and supporters, and 670 member clubs. Additionally, as a member of the Agreement Advisory Panel (AAP) for the Great Lakes-St. Lawrence River Basin Sustainable Water Resources, we ask that our comments and recommendations be weighed accordingly.

The O.F.A.H. recognizes York Region's need to ensure continued and uninterrupted water supply to existing residents and to secure future capacity based on population/infrastructure projections for the area (*Places to Grow Act, 2005, Master Plans*). However, in keeping with the "spirit and intent of all agreements regarding Great Lakes waters" (e.g. Maintaining the chemical, physical and biological integrity of the Great Lakes Basin Ecosystem - *Great Lakes Water Quality Agreement*), we are concerned that the proposal falls short of maintaining the "biological integrity" of Lake Ontario. For example, the proposal does not identify thresholds and/or assign stress levels for the water reserve in protection of fish habitat and ecological functions. The O.F.A.H. recognizes the importance of establishing basin wide thresholds and we highly recommend that the province of Ontario invest in further research.

The O.F.A.H. appreciates that York Region's proposal aims to reduce reliance on groundwater use in the Lake Huron watershed, and we agree that this should be considered when estimating the overall "cumulative" effects on the Great Lakes water balance.

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THE ONTARIO FEDERATION OF ANGLERS AND HUNTERS

Ms. Jennifer Keyes

June 14, 2010

Page Two

We also agree that further work is needed at the regional level to determine the potential roles for water balance assessment and other approaches to evaluate lake-based ecosystems, with respect to cumulative water demand and consumption. Further work is also needed in support of a regional cumulative impact assessment framework to assist Great Lakes states and provinces in assessing proposals and conducting impact assessments. These actions should be coordinated with other research efforts (e.g. IJC Lake Ontario – St. Lawrence study and the International Upper Great Lakes study).

The O.F.A.H. would like additional clarification to York Region's response to the AAP with respect to its Environmental Assessment and the conclusion that there would be no adverse harmful impacts to fish habitat or fish in Lake Ontario:

- What were the identified impacts that were avoided or mitigated?
- How will they be mitigated?
- Was water temperature considered in assessing quality of treated effluent? Water temp is an important parameter in determining the character of an aquatic environment, and one that must receive attention when setting quality standards.

We would be happy to discuss any aspects of our comments and recommendation with you in the near future. Once again, we appreciate the opportunity to participate in this process.

Yours in Conservation,



Dawn Sucee
Fish and Wildlife Biologist

/ds

cc: Terry Quinney

**New York State Department of Environmental Conservation
Division of Water**

Bureau of Water Resource Management, 4th Floor

625 Broadway, Albany, New York 12233-3500

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Alexander B. Grannis
Commissioner

JUL 20 2010

Ms. Jennifer Keyes
Manager, Great Lakes and Water Policy Section
Ontario Ministry of Natural Resources
300 Water Street
Peterborough, ON K9J 8M5
CANADA

Dear Ms. Keyes:

**RE: Prior Notice and Consultation on Regional Municipality of York, Ontario
Proposal for Increased Intra-Basin water Transfer under Great Lakes Charter**

On behalf of the New York State Department of Environmental Conservation ("Department"), I would like to express my appreciation for your notice and invitation to review and offer comments on the proposed intra-basin water diversion by the Regional Municipality of York, Ontario.

The Department wishes to recognize the excellent work by your Ministry and by the Regional Municipality in preparing the report, the supporting materials, and in providing the multiple opportunities to participate in consultation. During the webinar/teleconference we posed some questions that were addressed to our satisfaction, and were reflected in the responsiveness addendum produced in follow-up to the call. In particular, I commend you on revising the Impact Assessment section, 3.2.1 to ensure that the various water supply input/output information is consistent with the latest estimates used by the International Joint Commission (IJC) in evaluating alternatives to a new regulatory plan for Lake Ontario-St. Lawrence River water flows and levels. New York is especially interested to see that all Lake Ontario and St. Lawrence River water balance and impact assessments use information and data that is consistent with the IJC's International St. Lawrence River Control Board so that all governing institutions are in agreement as various governing mechanisms evolve in the future.

The Department has no further questions nor concerns at this time regarding the proposed action.

Sincerely,

Mark A. Klotz, P.E.
Director
Division of Water

cc: Honorable David Paterson, State Governor, New York
Mr. James Tierney, Assistant Commissioner, NYSDEC

Ministry of Natural
Resources

Policy Division

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Tél.: 416-314-6131
Télééc.: 416-314-1994



July 30, 2010

**RE: Prior Notice and Consultation on the Regional Municipality of York,
Ontario proposal for an increased intra-basin water transfer under the
Great Lakes Charter**

Dear Regional Body Designee,

Thank you for reviewing the Regional Municipality of York's proposal for an increased intra-basin water transfer from the Lake Ontario watershed into the Huron watershed, with return flow to Lake Ontario. We have considered the comments received from Regional Body designees, members of Ontario's Agreement Advisory Panel and First Nations, which are summarized in more detail in an attachment, and offer the following response and proposed decision on the proposal for your consideration.

Ontario undertook a two-phased approach to prior notice and consultation under the *Great Lakes Charter*, providing an initial time period for jurisdictions, stakeholders and First Nations to ask questions and seek additional information to assist their review, and a second time period for final comments. Supplementary information provided following the first phase responded to questions and information requests related to water conservation and efficiency, consideration of alternatives, justification for population and demand forecasts, the need to consider York Region's historical transfer of wastewater, First Nations community engagement, and potential cumulative effects on fish habitat, water quality and water levels.

Ontario received final comments on the proposal from five Regional Body designees. No objections were received and all deemed the proposal to be in accordance with the principles of the *Great Lakes Charter* and the goals, objectives and criteria of the *Great Lakes – St. Lawrence River Basin Sustainable Water Resources Agreement* (Agreement). Comments were generally positive, highlighting support for the phased consultation process, York Region's water conservation and efficiency efforts, the provision of return flow to the source watershed and for limiting groundwater usage to sustainable levels.

A few suggestions for moving forward with this and future proposals under the Agreement were also offered including the need for the Province to work with York Region to ensure that forecasted water savings are achieved, and the need for Regional Body members to invest time and effort in developing a common strategy to assess cumulative impacts, based on consistent data sources.

The comments received from Ontario's Agreement Advisory Panel members, the Canadian federal government and a number of provincial ministry representatives also offered support for York Region's water conservation and efficiency efforts and for reduced reliance on groundwater use. The need for the Region to expedite its long term water conservation and efficiency strategy to advance its conservation efforts beyond 2016 was raised as well as the need for project operation to account for Great Lakes water levels that are currently below average. The need for further work at a regional level to develop a cumulative impact assessment framework that includes assigning water reserve thresholds to protect fish habitat and ecological functions was also raised.

Additional questions regarding York Region's environmental assessment and its existing groundwater use were received as well. York Region has posted responses to these questions on their proposal website at <http://yorkwatertransfer.cenet.ca> in the "library of documents".

A regulatory approach to managing intra-basin transfers is not yet in place in Ontario, as implementing regulations still have to be consulted on and made. It is our expectation that once the statutory and regulatory regime implementing the Agreement is brought into force, new or increased transfers of 379,000 litres (100,000 gallons) per day or more will only be able to proceed if water conservation and efficiency measures, and other Agreement criteria can be satisfied.

In the context and based on consideration of the comments received, Ontario is satisfied that York Region's proposal to increase its intra-basin water transfer of Lake Ontario water, with return flow to Lake Ontario, up to a maximum daily transfer of 105 million litres per day by 2031 (27.7 million U.S. gallons per day), if it proceeds in accordance with the conditions set out below, is consistent with the principles of the *Great Lakes Charter* and the spirit of the Agreement. York Region is being guided by the spirit of the Agreement by agreeing to conditions related to the following:

- Preparation, submission by April 2011, and initiation of a long term Water Conservation and Efficiency Strategy for the water and wastewater flows within York Region, in consultation with lower tier municipalities, the public and relevant government agencies. The Strategy would include targets for conservation and efficiency and the timelines, strategies, tactics, programs and initiatives required to achieve the targets. The Strategy would also include a review and analysis of best in class water

- conservation and efficiency programs, initiatives, strategies and tactics adopted by other jurisdictions.
- Monitoring and annual reporting of intra-basin transfer volumes and the activities and achievements related to the implementation of water conservation and efficiency measures, beginning by April, 2012, including analysis of the savings and efficiencies achieved through the Strategy;
 - An assessment of how the savings achieved through the Strategy may be applied to extend the life of the approved intra-basin transfer beyond 2031, or to supply stressed areas with a stable water supply (e.g. areas serviced by groundwater, pending results of ongoing water quantity risk assessments) by April 2016; and
 - Updating of the Water Conservation and Efficiency Strategy every 5 years.

In response to comments seeking action by the Regional Body to support the assessment of cumulative impacts, Ontario proposes that the development of a common framework for assessing cumulative impacts of proposals at the Great Lake watershed and basin scale be discussed in the near future as follow up to the June 2010 Water Resource Managers Initiative discussion. As well, Ontario's experience with the phased consultation process highlighted for us the value of including such an opportunity in the regional review of future water diversion proposals. The Interim Procedures adopted by the Regional Body in June, 2010 provide an opportunity for such an approach, although there is no explicit requirement that phased consultation be undertaken.

If you have any concerns with Ontario's proposed decision on the Regional Municipality of York's water transfer proposal please contact Jennifer Keyes at greatlakesagreement@ontario.ca . If no concerns are raised by August 13th we will assume that there are no objections and will proceed on that basis. We thank you once again for reviewing the proposal and look forward to furthering our collective efforts to protect and conserve our shared Great Lakes Basin waters.

Sincerely,



Rosalyn Lawrence
Assistant Deputy Minister
Policy Division
Ontario Ministry of Natural Resources

c: Hon. Dalton McGuinty, Premier of Ontario
Hon. Jennifer Granholm, Governor of Michigan, Regional Body Chair
Hon. Jean Charest, Premier of Quebec, Regional Body Vice-Chair
Hon. Pat Quinn, Governor of Illinois
Hon. Mitch Daniels, Governor of Indiana

Hon. Tim Pawlenty, Governor of Minnesota
Hon. David A. Paterson, Governor of New York
Hon. Ted Strickland, Governor of Ohio
Hon. Ed Rendell, Governor of Pennsylvania
Hon. Jim Doyle, Governor of Wisconsin
David Naftzger, Executive Director, Council of Great Lakes Governors &
Secretary to the Regional Body
Hon. Linda Jeffrey, Minister of Natural Resources
Hon. John Gerretsen, Minister of the Environment
Joseph Comuzzi, Canadian Chair, International Joint Commission
Stephane Jobin, Director, U.S. Relations Division, Foreign Affairs and
International Trade Canada
Dean Knudson, Director General, Americas Directorate, Environment
Canada
Erin Mahoney, Commissioner, Environmental Services, Regional
Municipality of York



Stephen Harper
Prime Minister of Canada

Attachment:
**Comments on York Region's Intra-Basin Water Transfer Proposal
Overview of Key Themes**

Phase I Questions, Information Requests

- Water conservation and efficiency (e.g. use of innovative technologies);
- Consideration of alternatives to the transfer (e.g. limits of expanded groundwater use, Lake Simcoe);
- The need to consider York Region's existing transfer of wastewater from the Lake Huron watershed to Lake Ontario (resulting from groundwater use);
- Reasonable use of water (e.g. justification of population forecasts);
- the need to understand potential cumulative effects on fish habitat, water quality and water levels; and
- The need to fully engage Ontario First Nations communities;

Phase 2 Final Comments

Regional Body Designees:

No objections were received from Regional Body designees and all deemed the proposal to be in accordance with the principles of the *Great Lakes Charter* and the criteria of the *Great Lakes – St. Lawrence River Basin Sustainable Water Resources Agreement* (Agreement). Comments were generally positive, highlighting support for the phased consultation process, for York Region's water conservation and efficiency efforts, for return flow to the source watershed and for limiting groundwater usage to sustainable levels.

- Comments received from five Regional Body designees;
- No objections were received and all deemed the proposal to be in accordance with the principles of the Great Lakes Charter and the goals, objectives and criteria of the Great Lakes – St. Lawrence River Basin Sustainable Water Resources Agreement;
- Comments generally positive highlighting support for:
 - York Region's efforts to maximize water conservation and efficient use of current and future water supplies;
 - The return flow of water to Lake Ontario, the source watershed;
 - No significant impact to Lake levels or the outflow to the St. Lawrence River;
 - Limiting groundwater usage in the region to sustainable levels;
 - The phased consultation process, including the Regional Body presentation, webpage and supplementary information provided in response to questions, which was helpful in considering the regional review guidance recently adopted by the Regional Body and Compact Council; and

- The fact that Ontario consulted Great Lakes jurisdictions on the proposal even though the expected consumptive use is below the Agreement threshold.
- Suggestions for moving forward with York Region proposal and future proposals under the Agreement:
 - The need for the Province to work with project sponsors to ensure that forecasted water savings are achieved; and
 - The need to improve the state of knowledge and methods for assessing cumulative impacts and for Regional Body members to invest time and effort in developing a common assessment strategy based on consistent data sources.

Ontario's Agreement Advisory Panel, Canadian Federal Government, Ontario Ministries:

- Recognition of York Region's need to ensure continued, uninterrupted water supply and to secure future capacity to meet projected growth;
- Support for reducing reliance on groundwater use in the Lake Huron watershed and the inclusion of this consideration in estimating overall cumulative effects on the Great Lakes water balance;
- Support for further work at a regional level to determine the potential roles for water balance assessment and other approaches to evaluating lake-based ecosystem effects of cumulative water demand and consumption;
- Support for the need to develop a regional cumulative impact assessment framework to assist Great Lakes states and provinces in assessing proposals and the need to coordinate this work with other research efforts (e.g. IJC Lake Ontario – St. Lawrence study and the International Upper Great Lakes study);
- Support for York Region's existing *Water For Tomorrow* conservation program, including efforts for leak detection and repair, per capita residential water use targets and water use metering and York Region's commitment to undertake a long term water conservation plan which may help to lower the projected water transfer increase;
- Recognition that while the project is not expected to have a negative impact on the level or outflow of Lake Ontario, the development and future operation of the project should take into account the fact that Great Lakes water levels are below their respective averages and Lake Ontario is expected to remain below average for the foreseeable future;
- The need for investment in further research to assign basin-wide water reserve thresholds to protect fish habitat and ecological functions;
- The need to clarify whether any harmful impacts to fish or fish habitat were identified and mitigated through York Region's environmental assessment and whether water temperature was considered in assessing the quality of treated effluent; and
- The need to clarify the extent to which existing local supplies from groundwater may be reallocated from well to well as part of the proposed transfer as such reallocations could have implications to the Oak Ridges Moraine aquifer system which would need to be addressed.