



Comments on Bill 198
Safeguarding and Sustaining Ontario's Water Act, 2007
Presentation to the Standing Committee on Justice Policy
Wednesday, May 9, 2007

Presentation by Mayor Brian McMullan
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On behalf of
The Great Lakes and St. Lawrence Cities Initiative

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Good morning Chairman and members of the Committee on Justice Policy. Thank you for the opportunity to speak with you today on behalf of the Great Lakes and St. Lawrence Cities Initiative. My name is Brian McMullan and I am the Mayor of St. Catharines, a proud Great Lakes community, and I am the Ontario regional representative of the Great Lakes and St. Lawrence Cities Initiative.

By way of background, the Great Lakes and St. Lawrence Cities Initiative is a binational organisation of Mayors across the Great Lakes and St. Lawrence basin. We currently have 42 members, of which 24 are Canadian mayors. We have come together as the Cities Initiative to give a voice to the priorities and concerns of cities regarding the protection of the Great Lakes and St. Lawrence water system.

The Cities Initiative has been a strong supporter of the Great Lakes- St. Lawrence River Basin Sustainable Water Resources Compact, and we have actively participated on Ontario's Charter Annex advisory panel.

While the quality of the Great Lakes has consumed much of the attention and resources of senior governments over the last 30 years, increasingly at the local level, we are feeling the impact of water quantity issues. This impact manifests itself in several ways.

Firstly, lake and river levels are affected by water diversions, bulk water removals, and climate change. Along the St. Lawrence, in Lake Superior and in Lake Huron, we are already seeing quite dramatic lake and river level variations. This can have an effect on recreation, industry, and water and sewage services.

Secondly, municipalities draw on the water of the Great Lakes for our drinking water and rely on the lakes to discharge our sewage. In fact, 80 percent of Ontarians that receive municipal drinking water draw from the Great Lakes. Because of the excellent quality of Great Lakes water, and the limitations on groundwater, there is increasing pressure on some municipalities that do not currently draw from the Great Lakes to build a drinking water supply pipe to a Great Lake.

Thirdly, and finally, municipalities and their residents and industries, are enormous consumers of water. Municipalities have a responsibility to introduce water conservation and efficiency measures to ensure that water is not being used unnecessarily. While it may be difficult for residents to accept that there are in fact issues of water scarcity when they live at the shores of the Great Lakes, water conservation and water efficiency are important drivers of energy efficiency for municipal operations. So from a climate change perspective, water conservation and water efficiency measures are essential.

For these three reasons, the Cities Initiative has taken a keen interest in the Compact. And that is why the mayors felt it was important for me to come to speak to you today to express our collective support for Bill 198.

As a binational organisation, the Cities Initiative is in full support of the principles articulated in the Compact.

We are well aware of the pressures that will continue to mount, particularly in the US, to divert water from the Great Lakes to communities further south. It is therefore essential that we enshrine in law that such transfers are prohibited. The Cities Initiative is supportive of this principle.

We are also well aware of the pressures on some Ontario communities to seek or expand water takings from one of the Great Lakes, and in some cases, to discharge their sewage into another Great Lake. Under the terms of the Compact, and under the provisions of Bill 198, this would clearly constitute an intra-basin transfer, subject to very strict criteria.

The Cities Initiative is supportive of prohibiting these intra-basin transfers except under exceptional circumstances. The exemption criteria appear sound, although they are quite high level, and it is difficult to understand at this point how they will be prioritized and operationalized. How the exemption criteria will be applied in practice is vitally important for municipalities. If I may, Mr. Chair, I would like to expand on this point for a moment.

It has been the experience of some municipalities in Ontario that imposing restrictions on water takings at the end of a lengthy planning process, that is, at the point of applying for a permit to take water, is the wrong way to go about it.

By this time, all the planning is complete and the shovels are nearly in the ground. This is not the point at which a municipality should find out that it cannot proceed with its water taking. It must begin at the very beginning of the planning process, at the point of the environmental assessment. This provides clarity, predictability, and transparency for all parties concerned.

The Cities Initiative would request that the test as to whether an intra-basin water taking meets the criteria articulated in the Compact and in the Bill should occur at the beginning of the planning process. This should be integrated into the environmental assessment process. This would require a change to Section 34 (1) of the bill, which currently links the approval of an intra-basin water transfer to the permit to take water. It would also require a change to the class EA guidance materials. To reiterate, it must not apply at the point of applying for a permit to take water.

Secondly, the exemption criteria must fully respect the changing nature of Great Lakes water levels, both currently and in anticipation of the increasing impact of climate change. The exception standard criteria does require that the water taking have 'no significant individual or cumulative adverse impacts to water quantity or quality'. In our opinion, this criterion should take precedence over the other criteria, and should explicitly require an assessment of lake water levels, both current and forecasted.

Applying this type of criterion will require rigorous analysis of lake levels and the causes of declining levels.

To give the committee members some context, Lakes Michigan and Huron and Georgian Bay, the so-called middle lakes, are experiencing low water levels, this in spite of near average precipitation levels and good ice coverage.

Dr. Rob Nairn, the independent hydrologist who is studying the outflow from Lake Huron to the St. Clair River estimates that from 2005-2006, the permanent loss of water from the Middle Lakes through the St. Clair river has been 20-30 centimetres.

An Upper Lakes study currently being undertaken by the International Joint Commission will provide analysis of the St. Clair River issue and propose mitigation measures. This study is vitally important, given the economic and environmental costs resulting from the ongoing decline of Middle Lakes' water levels.

It is this type of analysis that will be needed on an ongoing basis if and when the exemption criteria are put to the test. Without this type of information, informed decisions will not be possible and the exception criterion will be meaningless.

The Cities Initiative offers its assistance to the Province in developing an approach to applying the intra-basin transfer exception criteria in practice.

I'd like to close with one final comment regarding the adoption of regional water conservation and efficiency objectives by the Parties to the Compact. The Cities Initiative sees this as an important opportunity to advance the issue of water conservation and water efficiency around the basin. The language of the Compact and of the draft objectives is based on a voluntary approach. And there is much pressure from some stakeholders to focus on water efficiency over water conservation- which sounds remarkably similar to energy intensity targets versus hard caps on emissions in the climate change debate.

We need to focus on both conservation and efficiency. And we need to do so in a binding framework in Ontario. The Cities Initiative is taking a leadership role in promoting water conservation amongst its members. Its members have pledged to reduce water consumption by 15 percent from 2000 levels by 2015.

Some municipalities are well on their way to achieving this target. But, as usual, we are using the limited authority and tools made available to us. It often involves a resource intensive effort, providing financial incentives to individual residents and businesses to use water efficient appliances and devices. In the end, it is a somewhat inefficient way to promote efficiency and conservation, but it is all we have available to us.

The Cities Initiative would therefore request that the Province proceed quickly to develop a water conservation program, and to go further than the proposed regional objectives.

We would encourage the Province to learn from municipal water conservation programs, and proceed with some short term measures immediately, rather than undertake lengthy research on water conservation.

To give you an example of what could be done immediately, municipal water conservation efforts would be given an enormous boost if the Province would legislate the use of water efficient appliances and devices for existing residences and businesses. For example, over a quarter of water used in a single family home is for toilet use. Currently, the building code only mandates that low flow toilets be used for new development. But anyone can walk into a hardware store and buy a 13- litre toilet to replace an old one at home. And it is usually cheaper than a 6- litre toilet.

These inefficient toilets have been banned in the US for over a decade, but we continue to allow their sale here in Ontario. The Province should ban the sale of these inefficient appliances.

To sum up on the issue of water conservation, much of the work has already been done at the municipal level. Let's get on with it. The Cities Initiative offers its assistance to the Province, and the assistance of its members in 8 states and two provinces, with this effort.

In conclusion, the Cities Initiative is in support of Bill 198, *Safeguarding and Sustaining Ontario's Water Act*.

- We support the ban on water exports outside of the basin.
- We support the ban on intra-basin transfers, except in exceptional circumstances, and we encourage the Province to work with the Cities Initiative in finding an effective way of operationalizing the exemption criteria. We also encourage the Province to prioritize consideration of lake levels when consider this criteria.
- And we support the development of a provincial water conservation framework and we encourage the Province to proceed quickly with adopting some short term policies to accelerate water conservation in the Province, and offer our support to this effort.

Thank you once again Mr. Chair, and members of the Committee, for your interest in the comments of the Great lakes and St. Lawrence Cities Initiative, and for allowing me to make this presentation today. I would be happy to answer any questions that you make have.

About the Great Lakes and St. Lawrence Cities Initiative

The Great Lakes and St. Lawrence Cities Initiative (GLSLCI) is an organization of mayors and other local elected officials advocating for protection and restoration of the Great Lakes and St. Lawrence River. The organization was founded in 2003 by Mayor Richard M. Daley of Chicago, with Mayor David Miller of Toronto as the lead in Canada. In a short time, the Cities Initiative has grown to include forty-two members, and over 100 participating municipalities. These American and Canadian cities from across the basin are working together to improve water quality, water conservation, and waterfront vitality. GLSLCI now has seats at many of the key decision making tables, we develop and exchange best practices, and we work for restoration and protection wherever possible.