



August 11, 2016

Dear Commissioners of the International Joint Commission,

The Great Lakes and St. Lawrence Cities Initiative requests the International Joint Commission to exercise its jurisdiction and responsibilities under the Boundary Waters Treaty of 1909 to prevent a diversion of water from the Great Lakes Basin to the City of Waukesha, Wisconsin. We believe that Articles III and VIII of the Boundary Waters Treaty grant jurisdiction to the IJC over this and all cases involving diversion of water from the Great Lakes-St. Lawrence Basin. Therefore, we request that the IJC exercise this jurisdiction in the matter of the application by the City of Waukesha, WI for a diversion of water from Lake Michigan under the Great Lakes-St. Lawrence River Basin Water Resources Compact.

The Compact was endorsed by the Governors of the eight Great Lakes states in December, 2005, and later approved by the United States Congress in 2008. In addition, the Governors, along with the Premiers of Ontario and Quebec, signed the companion Great Lakes-St. Lawrence River Basin Water Resources Agreement. The Compact and Agreement ban new water diversions from the Great Lakes-St. Lawrence Basin except in communities located in cities and counties straddling the water division line between the Great Lakes-St. Lawrence Basin and other basins. On June 21, 2016, the Council of Governors approved Waukesha's application for an exception.

The Cities Initiative is a binational coalition of 123 US and Canadian mayors, representing over 17 million people in cities across the eight US Great Lakes states, Ontario, and Quebec. The Cities Initiative works actively to advance the protection, restoration, and long-term sustainability of the Great Lakes and St. Lawrence Basin. In furtherance of this mission, the Cities Initiative has been closely monitoring the City of Waukesha's Application and has maintained its position in formal proceedings that the Application did not meet the requirements of the Compact. The precedent-setting nature of the Application's approval is of concern to the Cities Initiative for multiple reasons.



First, the approved water service area does not meet the exception criteria defined in the Compact. The inclusion of land outside of the City of Waukesha's jurisdictional boundaries amounts to a clear violation of the Compact. Because this was the Compact Council's first decision regarding an exception for a community within a straddling county, the Compact Council should have interpreted the Compact strictly. The decision to approve the Application regardless of the Compact's specific language sets a dangerous precedent for future applications.

Second, although the Compact requires that there is no reasonable water supply alternative within the basin in which the community is located, the City of Waukesha has not exhausted available alternatives. The City maintains that radium contamination in its deep aquifer well necessitates the diversion, but an alternative involving radium treatment infrastructure was disregarded. The Compact Council dismissed this alternative because it maintains that the deep aquifer is unsustainable and that treatment will result in toxic wastewater sludge. However, water demand forecasts considered in the Application are not based on the current data which suggests that the aquifer is sustainable. In addition, the WDNR has stated that radium levels in wastewater sludge would comply with the City's permit requirements. The dismissal of viable alternatives represents a violation of the Compact.

Third, as a result of the diversion, water will be returned to Lake Michigan through the Root River in Racine, WI. This will have adverse environmental impacts on the River's ecosystem. Return flow from the Waukesha Wastewater Treatment Plant will contribute to elevated phosphorus and chloride levels in the River. In addition, the WDNR has no regulatory authority over pharmaceuticals in treated effluent, which will have negative impacts on aquatic life in the River. The endangerment of the River ecosystem constitutes another violation of the Compact because the flow of the wastewater is so large compared to the flow of the Root River.

Finally, the opportunity for public comment in the Application review process was inadequate in light of the Compact's public participation requirements. The Regional Body review process provided for only one public meeting in Waukesha, and none in other locations, and hundreds of comments opposing the Application were largely ignored. In addition, the requirement that all relevant documents are accessible to the public was violated because the conditions for approval which significantly changed the original application were not subject to public comment.



In conclusion, the Cities Initiative asks that you exercise your jurisdiction to protect the Great Lakes-St. Lawrence River Basin by taking any action within your authority to challenge and overturn the approval of the Waukesha Application. The Cities Initiative is committed to challenging the approval pursuant to procedures contemplated under the Compact, which may include petitioning the Compact Council for a hearing and initiating judicial review of the decision. If the approval of this Application stands, the integrity of the Compact and the finite resources of the Great Lakes-St. Lawrence River Basin will be at risk.

Yours faithfully,

The Honourable Denis Coderre,
Mayor of Montréal
Chair of the Great Lakes and St. Lawrence Cities Initiative

cc: President Barack Obama - USA
Governor Rick Snyder - Michigan
Governor Andrew Cuomo - New York
Governor Mark Dayton - Minnesota
Governor John Kasich - Ohio
Governor Mike Pence - Indiana
Governor Bruce Rauner - Illinois
Governor Scott Walker - Wisconsin
Governor Tom Wolf - Pennsylvania

Prime Minister Justin Trudeau - Canada
Premier Kathleen Wynne - Ontario
Premier Philippe Couillard - Quebec