



# MEDIA BACKGROUND

## Great Lakes and St. Lawrence Cities Initiative

On November 30, 2018, Anishinabek Nation leadership and Canadian and American municipal leaders gathered together for the first time for a news conference in Collingwood, Ontario, united in calling for a change to the proposed procedures for water withdrawals from the Great Lakes and St. Lawrence. The Anishinabek Nation joined the mayors in cautioning the Compact Council and Regional Body against the new proposed procedures which would weaken the protection against large water withdrawals, and so weaken the protection of these national freshwater treasures. The Anishinabek Nation and the mayors of the Great Lakes and St. Lawrence Cities Initiative are requesting that the Compact Council and Regional Body defer their December decision on the proposed procedures to allow additional time for review.

### Issue 1—Insufficient Opportunity for Public Involvement:

- Despite the broad statement within in the Compact Agreement, the Compact Council has refused to adopt two provisions which would clearly promote the level of public involvement anticipated by the Compact:
  1. Whenever any diversion request is considered, the Compact Council should require that every member state and province hold a public meeting or hearing in its jurisdiction regarding all diversion proposals.
  2. Whenever the final version of an approved diversion varies substantially from the version that the public was allowed to review and comment on, the Council should permit another opportunity for public comment.

### Issue 2—Remaining & New Deficiencies in the Council's ability to Review and/or Enforce Diversion Requests:

- No Post-Enforcement Monitoring: In the updated guidance and procedures, the Compact Council has failed to accept the role it must play in helping monitor and enforce an Applicant's compliance with its diversion request after the request is approved.
- Diversion Applicants not required to provide Monthly Usage Estimate: Without explanation, the updated guidance and procedures eliminated the requirement that diversion applicants provide a monthly estimate of how much water they propose to divert from the Great Lakes. By eliminating this requirement, the Compact Council has created a blind spot in its review process because the Council will be unable to measure or account for the negative ecological impact that could result from irregular and heavy return flows. This concern is precisely why the *Environmental Protection Act* requires applicants provide monthly usage rates in the context of permitting considerations.

### Anishinabek First Nation Perspective

The Anishinabek Nation represents 40 First Nations throughout the province of Ontario from Golden Lake in the east, Sarnia in the south, Thunder Bay and Lake Nipigon in the north. The 40 First Nations have an approximate combined population of 65,000 citizens, approximately one third of the province of Ontario's First Nation population.

Anishinabek people have a collective responsibility to take care of the waters as these were gifted to the Anishinabek by the Creator. This responsibility is taken seriously as water is fundamental to physical, cultural and spiritual well-being of the Anishinabek. The importance of this connection to water is recognized by the United Nations Declaration on the Rights of Indigenous Peoples Article 25:

*Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.*

The Anishinabek have inherent rights and Aboriginal and treaty rights which are reaffirmed in Section 35 of Canada's Constitution 1982. These Aboriginal and treaty rights are constitutionally protected. The Crown has the duty to consult and accommodate in relation to any decisions that may impact land or waters and related Aboriginal and treaty protected rights. Many inherent and treaty protected rights rely on clean water and healthy lake beds that allow for the exercise of fishing, hunting and gathering rights and spiritual practices. Such consultation and accommodation is not only a legal requirement but also provides greater accountability for all jurisdictions.

The Chiefs of Ontario met on Anishinabek Territory in 2008 and produced the First Nations Water Declaration in Ontario that reads in part:

*...First Nations in Ontario made treaties with non-Indigenous people based on the continuation of all life and; First Nations in Ontario's treaty relationship makes certain that our internationally protected right to give our free and fully informed consent on all issues related to use and care of waters is our right and was not given over with the making of Treaties;  
First Nations in Ontario's fundamental water rights is a relationship based on an expression of a power relationship between ourselves and the Creator and;  
First Nations have rights to determine the key priorities of waters including distribution...*

The Anishinabek Nation has repeatedly intervened in the process to develop the draft Compact Council procedures, and to register their disagreement and filed formal comments.

#### Great Lakes and St. Lawrence Cities Initiative Perspective

The Great Lakes and St. Lawrence Cities Initiative ([www.glslcities.org](http://www.glslcities.org)) is a coalition of over 100 US and Canadian mayors and municipal leaders working to protect and restore the Great Lakes and St. Lawrence River.

In August 2017, the Cities Initiative settled its challenge to the Waukesha Diversion Approval with an agreement to collaborate on improving the review of water diversion applications in the future. The agreement called for a rigorous review of the Compact Council and Regional Body's process for considering diversions.

Our sole objective has always been to ensure the protection of the Great Lakes and St. Lawrence River Basin. In order to reinforce the Compact, the Cities Initiative's main goals for the procedure's updates were:

- Improved public engagement process, including public hearings in Canada and the United States;

- Development of the public record to support any decisions made by the Compact Council and Regional Body;
- Consideration of new information that becomes available during the process and of changes in the application while under consideration;
- Ability for the Compact Council to monitor and enforce approved diversion conditions; and
- Adopt binding Rules, not only Guidance.

The Mayors of the Great Lakes and St. Lawrence Cities Initiative remain committed to working with the Compact Council and Regional Body to further improve the water diversion procedures.

**For more information please contact:**

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**Additional information available online:**

Anishinabek Nation: <http://www.anishinabek.ca>

Great Lakes and St. Lawrence Cities Initiative: <http://glslcities.org>