The Ontario Headwaters Institute

Preserving Ontario's headwaters, the foundation of our watersheds

September 20, 2011

Canadian and US Chief Negotiators
Great Lakes Water Quality Agreement
PDF via e-mail

Under discussion for several years, the apparent direction of the next version of the Great Lakes Water Quality Agreement is a source of great concern.

We provide the following observations and suggestions, augmenting our signature on the submission from Great Lakes United (GLU).

A. The Ethical Context - The Need for Transparency and Vision

The suggestion from the Parties and their negotiating teams that draft text cannot be supplied due to the sensitivities of international negotiations lacks credibility. In addition, the tight timeline for the close of consultations, without a draft of the Agreement being provided to the public, is artificial and an affront to the public trust.

Instead of a draft Agreement, as provided in the past, we have been supplied with a vague slide deck and, too often, ambiguous responses to questions. Both indicate a hollow effort to replace an Agreement that was visionary in its commitment to protecting the chemical, biological, and physical integrity of the Great Lakes ecosystem.

Aspects of confusing signals and/or a diminished vision for the Lakes include:

- The propagation of a Great Lakes Executive Council and the delegation of future actions to poorly described and potentially under-funded sub-committees, with no apparent mandate or resources to support public involvement;
- Wording on pursuing the ecosystem approach, but without a clear mandate to pursue watershed management, particularly as it relates to land use planning and pollutant flows, or reduced water flow, into the Lakes;
- An apparent turn from goals, targets, and milestones toward a thematic framework, although the Parties keep talking about "action";
- A slide deck commitment to improved RAPs, without any wording on their funding or evaluation of effectiveness, countered by statements at public meetings about the primacy of LaMPS over RAPs;
- An apparent retreat from Zero Discharge / Virtual Elimination, coupled with an unacceptable narrowing in scope of Annex X from Hazardous Polluting Substances to Chemicals; and,
- In spite of its high profile, no definition of the term "near shore".

It is time to change course from this hollow effort, build on the strengths of the past, commission the needed science, engage the community, and fund action.

A good place to start would be to designate additional AOCs or to list a slew of priority watersheds - not just those that contribute pollutants to the Lakes but also those in which natural heritage features and water characteristics have been significantly reduced.

Another would be to re-visit the 2006 Special Report of the IJC on the Agreement. Key recommendations that we support include:

- The establishment of a political-level Binational Coordinating Committee, with an OHI request that its meetings open to the public;
- That the Agreement strengthen the Parties' commitment to the ecosystem approach, that it incorporate "protection" of the lakes into its mandate, and that the Agreement include human health; and,
- That the Agreement be action-oriented.

Suggestions:

1. That the Parties re-visit the recommendations contained in the Special Report from the IJC;
2. That the Parties develop draft text for the Agreement and submit it to public consultation;

B. The Ecological Context – Embracing Watersheds and their Headwaters

It is disconcerting to observe the Parties' on-going perspective that the Lakes can be managed separately from their watersheds. We provide three examples.

Climate Change: Generally, when agencies and individuals talk about climate change and the Great Lakes, concerns include ships carrying less freight, increased dredging, stranded docks, the relocation of municipal water intake and effluent pipes and, more recently, reduced biomass caused by dry coastal areas. If, however, we wait until the levels of water in the Lakes drop, what might have already happened up-stream? Forest fires might increase the erosive force of increased run-off, potentially impacting aquatic and riparian habitat and thereby both breeding habitat and nutrient flow to the Lakes. Conversely, wetlands and other headwater habitats may be dry at a crucial time of the year for fish, amphibians, and other species. Finally, both increased air-borne water pollutants and reduced flows in rivers may result in increased Beneficial Use Impairments. While on average the Lakes obtain just over 50% of their inflow directly rainfall, the rest comes from rain making its way to the Lakes via its watersheds, diversions, and groundwater. Managing the Lakes, or de-listing a RAP in a changed climate with less flow, is best approached in a framework of watershed management.

Biodiversity: The biomass of the Great Lakes ecosystem may depend as much on headwater streams and wetlands miles inshore as it does on the near shore. The stream continuum - aquatic and terrestrial insects, spiders and water striders, and minnows, frogs and crayfish, as well as other organic and nutrient material - forms the basis of life downstream. Other aspects where headwater streams and watersheds can impact the Lakes include introduced species such as the asian carp. For both beneficial and deleterious effects, the Parties must lift their eyes from a defined focus on the Lakes and embrace a framework for integrated watershed management.

Upstream Pollution: The OHI welcomes the potential inclusion of municipalities and others on a revamped executive committee. One element society needs to address is not just pollution at its highest concentrations, nor where it accumulates in AOCs, but cumulative pollution. One way to ensure clean water is to adopt cumulative monitoring and to require that municipalities, including rural municipalities with extensive agriculture, ensure that the surface water leaves their jurisdiction in the same quality as when it entered. The current claims of metropolitan census areas that they produce most of our economic wealth should be tempered with their responsibility to not incur ecological deficits. Pollution does not just happen: it is permitted. Let us be more holistic in how we safeguard our water from pollutants, throughout our watersheds.

Suggestions:

3. That the Parties adopt and apply Integrated Watershed Management for the whole of the Great Lakes, including cumulative monitoring.
4. That the Parties develop a policy and recommend a framework to require that municipalities ensure that the surface water leaves their jurisdiction in the same quality as when it entered.

Conclusion

Some old challenges, such as the sea lamprey, have been beaten back. Other old challenges, such as phosphates, were beaten temporarily and have returned. Still others, such as chronic industrial and municipal pollution, remain, while new challenges, from endocrine disruptors in pharmaceuticals to the asian carp, are coming and will continue to emerge.

It is time to act. Our Great Lakes cannot await more meaningful action, and responsibility for the Lakes must be born broadly, with integrated strategies, funded implementation plans, and meaningful public engagement.

The framers of the last Agreement had a high ideal: to restore and maintain the chemical, physical, and biological integrity of the waters of the Great Lakes Basin Ecosystem.

It is time to honour and expand upon this vision and act, not just for the waters but the whole of the Basin, from headwater drainage areas, through our watersheds and their varied land uses, for the Lakes themselves, and downstream.

Sincerely,

Andrew McCammon
Executive Director

CCs – Selected officials, agency staff, and community organizations