

**VIA E-MAIL AND HAND DELIVERY**

February 6, 2017

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c/o Council of Great Lakes Governors  
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Re: Reply in Support of Request for Hearing re Final Decision in the Matter of the Application  
by the City of Waukesha, Wisconsin for a Diversion of Great Lakes Water, No. 2016-1

To the Executive Director of the Great Lakes-St. Lawrence River Basin Water Resources Council:

On behalf of the Great Lakes and St. Lawrence Cities Initiative (the "Cities Initiative"), enclosed please find the Cities Initiative's Reply to City of Waukesha's Response to the Cities Initiative's Request for Hearing.

The Cities Initiative continues to reserve all of its rights under the Compact and under all other applicable state, federal, and international laws regarding the hearing, as well as its ability to challenge the Compact Council's June 21, 2016 Final Decision in Matter No. 2016-1 through any other avenue or in any related matters.

Respectfully submitted,



Jill M. Hutchison

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February 6, 2017

Page 2

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February 6, 2017

Page 5

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**BEFORE THE GREAT LAKES-ST. LAWRENCE RIVER BASIN  
WATER RESOURCES COMPACT COUNCIL**

**GREAT LAKES AND ST. LAWRENCE  
CITIES INITIATIVE,**

**Petitioner**

**GREAT LAKES AND ST. LAWRENCE CITIES INITIATIVE'S  
REPLY TO CITY OF WAUKESHA'S RESPONSE  
TO THE CITIES INITIATIVE'S REQUEST FOR A HEARING**

## **TABLE OF CONTENTS**

|   |    |
|---|----|
| INTRODUCTION .....  | 1  |
| STANDARD OF REVIEW .....  | 3  |
| ARGUMENT .....  | 5  |
| I. The Cities Initiative Is An Aggrieved Person Under The Compact. ....   | 5  |
| A. The Cities Initiative Is Not Required To Meet Article III Standing Requirements<br>For Purposes Of This Challenge. ....  | 5  |
| B. Cities Initiative Has Standing On Its Own Behalf As An Organization. ....  | 5  |
| C. Cities Initiative Has Standing On Behalf Of Its Members. ....  | 6  |
| 1. Members have standing based on injury to the legal protections of the<br>Compact. ....   | 8  |
| 2. Mayor Dickert and the City of Racine have standing. ....   | 9  |
| II. The Compact Council Should Have Reopened the Public Comment Period After Reducing<br>The Service Area And Associated Water Volume In The Waukesha Application. ....   | 12 |
| A. The Compact Council Should Have Reopened the Comment Period When it<br>Substantially Modified Waukesha’s Application. ....   | 12 |
| B. The Council’s Failure To Reopen The Comment Period After It Reduced The<br>Size Of The Service Area And Associated Water Volume in Waukesha’s Proposal<br>And To Require Supplemental Technical Analysis Based Upon The Lower<br>Demand Deprived The Cities Initiative And Other Members Of The Public Of<br>The Opportunity To Subject The Modified Proposal To The Type Of Meaningful<br>Review That It Required. .... | 17 |
| III. Waukesha’s Suggestion That A Community Within A Straddling County – Or Any Other<br>Community Withdrawing Great Lakes Water – Has No Fixed Bounds On Its Service Area<br>And May Provide Water To Any “Physically Connected” Area Is Unfounded And Would<br>Eviscerate The Compact. ....   | 18 |
| IV. The Council Erred In Granting Waukesha’s Diversion Because Waukesha Has A Reasonable<br>Water Supply Alternative. ....  | 22 |
| A. The Compact Council Used an Improper Standard to Evaluate Whether Waukesha<br>Had “No Reasonable Water Supply Alternative.” ....   | 22 |
| B. The Compact Council Improperly Rejected the Non-Diversion Water Supply<br>Alternatives. ....   | 25 |

|  |    |
|--|----|
| C. The Compact Council Did Not Evaluate the Possibility of a Partial Diversion. ....   | 28 |
| V. Waukesha’s Efforts To Minimize The Adverse Impacts Of The Root River Discharge Are Unpersuasive.....  | 29 |
| A. The Compact Council’s Decision Lacks Any Requirement That Waukesha Mitigate The Adverse Impacts On The Root River. ....                         | 29 |
| B. The Compact Does Not Allow The Compact Council To Engage In A Cost-Benefit Assessment. ....   | 31 |
| VI. The Direct Adverse Impact Of This Diversion And Cumulative Impacts That Will Result From The Precedent It Set Were Not Properly Assessed. .... | 32 |
| A. The Council Improperly Approved a Diversion With its Own Direct Adverse Impact. ....  | 32 |
| B. The Council’s Approval Created Precedent That Threatens Significant Cumulative Impacts in the Great Lakes Basin.....                            | 33 |
| CONCLUSION.....  | 34 |

## **INTRODUCTION**

The Great Lakes and St. Lawrence Cities Initiative (“Cities Initiative”) is not before the Great Lakes-St. Lawrence River Basin Water Resources Compact Council (“Compact Council”) simply because it disagrees with the Compact Council’s final decision or because it wants to check off a prerequisite to judicial review. The Cities Initiative came to the Compact Council because it sees an opportunity for the Compact Council – and not a court – to ensure that the definitions, standards of review and decision, and procedures being applied now and in the future are consistent with the Great Lakes-St. Lawrence River Basin Water Resources Compact (“Compact”) and its purposes.

At the heart of this matter are two fundamental concerns:

- (1) That the Compact Council did not allow adequate public comment on and refined analysis of an evolving diversion. These additional inputs should have been taken into account before making this benchmarking decision.
- (2) That the Compact Council approved the City of Waukesha’s (“Waukesha”) application for a diversion without clarity on key definitions and standards. In doing so, the Compact Council cemented definitions and standards that are inconsistent with the Compact and its purposes and that weaken the long-term viability of the Compact.

The review sought by the Cities Initiative<sup>1</sup> is not outside the Compact Council’s purview and is not subject to the heightened standards that may apply to judicial review. Moreover, the

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<sup>1</sup> The prior briefs in this matter are cited as follows: Cities Initiative’s Written Statement in Furtherance of Request for Hearing and Compact Council Consideration (Sept. 16, 2016) (“CI”); Appendix to Cities Initiative’s Written Statement in Furtherance of Request for Hearing and Compact Council Consideration (Sept. 16, 2016) (“CI App”); Cities Initiative’s Supplement to Written Statement in Furtherance of Request for Hearing and Compact Council Consideration

Cities Initiative, consisting of 127 Great Lakes communities as represented by their respective mayors, is an “aggrieved Person” under the Compact whose interests and concerns are properly raised in this proceeding.

While Waukesha and the State of Wisconsin rolled certain assumptions into developing the Application, and various members of the public commented on whether those assumptions were valid or appropriate, the fact remains that the Compact Council should have reopened the public comment period after revising the service area and associated water volume. Without an opportunity to review and comment on the actual diversion – and not just an assortment of variables that may or may not become part of Waukesha’s diversion – the Cities Initiative and other parties were denied an opportunity that they would have taken to analyze the actual diversion, to consult with experts to understand whether the basis for that diversion was accurate and valid, and to provide the Compact Council with valuable analysis and expertise that was not shaped by the goal of a diversion at all costs.

Beyond the issue of whether the Compact Council allowed appropriate public participation, Waukesha overlooks fundamental issues that plague the Compact Council’s decision and, in some instances, tries to exacerbate them. First, Waukesha’s suggestion that a Community in a Straddling County – or any other community withdrawing Great Lakes Water – has no bounds on its service area and may provide water to any “physically connected” area is unfounded and would eviscerate the Compact. Second, the Compact Council erred in granting Waukesha’s diversion because Waukesha has a reasonable water supply alternative if an appropriate standard is used, and not the ambiguous concept espoused by Waukesha. Third, Waukesha’s efforts to convince the Compact

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(Dec. 19, 2016) (“CI Supp.”); and The City of Waukesha’s Response to the Cities Initiative’s Request for a Hearing (Jan. 23, 2017) (“Waukesha Resp.”).

Council that the adverse impacts of the Root River discharge will be minimal are unpersuasive. Fourth and finally, the direct adverse impact of this diversion and the cumulative impacts that will result from its precedent were not properly assessed.

As raised in the Cities Initiative’s initial submission, a critical step in addressing these issues and ensuring the viability of the Compact going forward is to clearly state the standards that apply here and to any future water seekers. (*See* CI at 5-6, 58-60) (asking the Compact Council to “clarify key legal standards to be applied”).) The contrasting interpretations posited in Waukesha’s Response and in the Cities Initiative’s submissions, including the precedent they set and the potential for significantly different future impacts that they pose, highlight the need for the Compact Council to resolve those differences in an unambiguous manner. The Cities Initiative renews its request that the Compact Council do so as the threshold of any resolution of this matter.

### **STANDARD OF REVIEW**

Waukesha fundamentally misconstrues the standard of review applicable here because the Compact Council is not an appellate “entity” reviewing another entity’s decision—the Compact Council is reviewing its own decision. While recognizing that this matter is in front of the Compact Council “on reconsideration,” (Waukesha Resp. at 4 n.4), Waukesha erroneously states that “[t]o overturn such a decision, a challenger must show that the decision was arbitrary and capricious.” (*Id.* at 4.) However, every decision cited by Waukesha in support of this proposed standard of review involved an appellate “entity” (*e.g.*, an appellate court) reviewing a lower entity’s (*e.g.*, an agency) decision.<sup>2</sup>

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<sup>2</sup> *Dr. Pepper/Seven-Up Cos. v. FTC*, 991 F.2d 859, 861 (1993) (D.C. Circuit and lower court reviewing the FTC’s denial of an application); *F.E.R.C. v. Elec. Power Supply Ass’n*, 136 S. Ct. 760, 772-73 (2016) (U.S. Supreme Court and D.C. Circuit reviewing a FERC rule); *Patterson v. Caterpillar, Inc.*, 70 F.3d 503, 505 (7th Cir. 1995) (Seventh Circuit and lower court reviewing retirement-plan administrator’s decision as analogous to an agency decision). Although cited in

Here, the Cities Initiative is requesting relief in front of the *same* entity (the Compact Council) that rendered the decision at issue. In other words, the Cities Initiative requests that the Compact Council reconsider its decision. As a rule, a party can move a court to reconsider its decision, among other reasons, in order to “correct manifest errors of law or fact.” *Caisse Nationale de Credit Agricole v. CBI Indus.*, 90 F.3d 1264, 1269 (7th Cir. 1996). Furthermore, “reconsideration is left to the discretion” of the body that rendered the original decision. *Id.* Agencies similarly can entertain motions to reconsider their decisions. *See, e.g.*, 40 C.F.R. § 124.19(m) (authorizing motions to reconsider decisions of the U.S. EPA’s Environmental Appeals Board); *In re Firestone Pac. Foods, Inc.*, No. EPCRA-10-2007-0204, 2009 WL 801853 at \*24 (E.P.A. Mar. 24, 2009) (observing that “a motion for reconsideration of an Administrative Law Judge’s order is subject to the same standard of review as that for orders of the Environmental Appeal Board”).

Therefore, we agree with Waukesha’s “commonsense notion . . . that an agency ought to have an opportunity to correct its own mistakes . . . before it is haled into federal court.” Waukesha Resp. at 6 (quoting *McCarthy*, 503 U.S. at 145). Because it is the same body that rendered the decision, “the administrative agency wields greater discretion when reviewing [its] decision than does a court.” *Pythagoras Gen. Contr. Corp v. U.S. Dept. of Labor*, 926 F. Supp. 2d 490, 496 (S.D.N.Y. 2013). Therefore, the Compact Council has the discretion to review its own findings and conclusions without being constrained by the “arbitrary and capricious” standard.

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the same section, *McCarthy v. Madigan*, 503 U.S. 140 (1992), did not concern the arbitrary and capricious standard; rather, it concerned whether a prisoner had exhausted his remedies under an internal grievance procedure pursuant to Federal Bureau of Prisons’ regulations. *Id.* at 141.



## **ARGUMENT**

### **I. The Cities Initiative Is An Aggrieved Person Under The Compact.**

As the Cities Initiative showed in its submission, it is an “aggrieved Person” under the meaning of the Compact. As such, it is entitled to a hearing to challenge the Compact Council’s decision regarding Waukesha.

#### **A. The Cities Initiative Is Not Required To Meet Article III Standing Requirements For Purposes Of This Challenge.**

As an initial matter, this is not an action before a U.S. federal court, and so the Cities Initiative’s right to challenge the Waukesha diversion before the Compact Council is not defined and limited by federal court standing principles. (Although, as demonstrated in its initial submission and below, Cities Initiative would have standing in a federal court.) Instead, Cities Initiative must show it is a “Person aggrieved by any action taken by the Council,” as set forth in the Compact. Compact § 7.3. The Cities Initiative’s submissions, including multiple affidavits on behalf of the organization and its members, show that the Cities Initiative and its individual members have a number of well-supported grievances against the process and outcome of the Compact Council’s decision on Waukesha.

#### **B. Cities Initiative Has Standing On Its Own Behalf As An Organization.**

Waukesha contends that the Cities Initiative’s injury of resource expenditure on opposing future diversions is not sufficient for standing, but Waukesha’s argument is based on an incorrect reading of case law. The case law Waukesha cites in support stands only for the narrower principle that an organization cannot claim standing based on the costs incurred from “that very suit.” *Spann v. Colonial Vill., Inc.*, 899 F.2d 24, 27 (D.C. Cir. 1990). The Cities Initiative is not claiming injury based on the costs of this challenge (or a future court challenge) to the Waukesha diversion, which would not be sufficient for standing. Rather, the Cities Initiative has been injured because the

procedurally and substantively incorrect decision on the Waukesha diversion (1) has caused the organization to expend resources on sending the executive director to engagements to explain why the Waukesha decision is wrong, and (2) will force the organization to spend additional resources in the future to monitor and respond to diversion requests that have been encouraged by the Waukesha diversion approval. (*See* CI Supp. at 5.)

Waukesha acknowledges that an organization has standing when the injurious action has caused the organization “to redirect their resources to counteract the effects of the defendants’ allegedly unlawful acts.” *Spann*, 899 F.2d at 27. That is exactly what has happened here. Cities Initiative funds that would go to other lake-protective projects now must be used to educate the Cities Initiative membership and the public about diversions. Cities Initiative must now use its resources to develop and execute a strategy to counteract the weakening of the Compact’s protections and to lessen the likelihood that further improper diversions will be sought and allowed. The need to allot funds to this cause prevents the Cities Initiative from carrying out other projects that would further its protection of the Great Lakes. And that is an injury that confers standing on the Cities Initiative. *See Blunt v. Lower Merion School Dist.*, 767 F.3d 247, 304, 305-14 (3d Cir. 2014) (organization had standing where it hosted educational events about how to avoid the harms from the wrongdoing, and increased expenditures were taken to further the organization’s goals); *Nnebe v. Daus*, 644 F.3d 147, 156-58 (2d Cir. 2011) (organization had standing to challenge an unlawful procedure that harmed its members when it was forced to expend additional resources to assist its members in avoiding that procedure).

**C. Cities Initiative Has Standing On Behalf Of Its Members.**

Waukesha argues that the Cities Initiative has not shown that any of its members have standing to challenge the Waukesha diversion. However, Waukesha does not contest the Cities

Initiative's showings that it meets two of the three elements necessary for that standing. Waukesha does not contest that the interests at stake in this challenge are central to the Cities Initiative's mission, or that the Cities Initiative can pursue this challenge without needing any individual members to join as a party to the challenge. The only point Waukesha raises is an assertion that none of the Cities Initiative's members would have standing to bring this challenge individually. But the evidence and case law the Cities Initiative has presented confirm that its members would have standing.

As an initial matter, Waukesha appears to incorrectly believe that the Cities Initiative's standing is based solely on the standing of the mayors, and not their cities. It is important to be clear that the Cities Initiative is an association of mayors from the Great Lakes region, but the mayors participate in the Cities Initiative on behalf of and as representatives of their cities. The Cities Initiative by-laws state that the members are "[a]ny municipality or other local unit of government" who otherwise meet the criteria for eligibility. (Ex. 1, Cities Initiative By-Laws, Art. 10.02.) Cities themselves vote on whether to become members of the Cities Initiative – that is not a decision made by the mayoral representatives. Accordingly, the Cities Initiative submitted declarations from two mayors describing the impact of the Compact Council's Waukesha diversion decision not just on themselves, but also on their cities. The injury of the diversion to the cities themselves has been further recognized by many city councils that passed resolutions recognizing the negative effects of the Waukesha diversion that the mayors set forth in their affidavits, and endorsing the Cities Initiative's challenge to that diversion. Those resolutions are attached to this submission as Exhibit 2.<sup>3</sup>

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<sup>3</sup> The Compact Council can consider the passage of these city council resolutions as they relate to the Cities Initiative's standing because they are the type of documents of which a court can take judicial notice. *See, e.g., Minch v. City of Chicago*, 486 F.3d 294, 300 n.3 (7th Cir. 2007) (court

**1. Members have standing based on injury to the legal protections of the Compact.**

In part, Waukesha argues the Cities Initiative members do not have standing because the “precedential effect” of the decision on future diversion decisions is the only injury alleged, and such a precedential effect is not enough for representational standing. However, Waukesha misunderstands the nature of the asserted injury; it is not simply the creation of bad precedent. Rather, the injury the mayors and their cities have suffered is a weakening of the protective force of the Compact itself, and of all the protections the Compact, which has been enacted into federal law, is supposed to provide to the cities of the Great Lakes region, including those who make up the Cities Initiative.

As the Cities Initiative articulated in its submissions, the Compact Council’s failure to follow the procedures required by the Compact left the mayors’ and their cities’ interests in clean water with lesser protection than they had before the Waukesha decision. One of the findings that accompanied enactment of the Compact is that “[t]he most effective means of protecting, conserving, restoring, improving and managing” the Great Lakes and St. Lawrence River is through “policies and programs mutually agreed upon, enacted and adhered to by all” participants to the Compact Council. Compact § 1.3(1)(f). The mayors of the Cities Initiative and the cities they represent have unique interests in the protections of the Compact because their municipalities rely on the water protected by the Compact. By failing to adhere to the procedures and requirements set forth in the Compact, the Compact Council has injured the Cities Initiative’s right

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may take judicial notice of local ordinances enacted by City Council); *Robinson v. City of Evanston*, 2017 WL 201374, at \*2 n.3 (N.D. Ill. Jan. 18, 2017) (taking judicial notice of local official’s role in city government and date of City Council approval of a local ordinance); *Detroit Int’l Bridge Co. v. Gov’t of Canada*, 133 F. Supp. 3d 70, 85 (D.D.C. 2015) (“Judicial notice may be taken of public records and government documents available from reliable sources.”).

to that effective protection. That injury to their right to the protections of the Compact is sufficient to confer standing. *See, e.g., Whitford v. Gill*, 2016 WL 6837229, at \*69 (W.D. Wis. Nov. 21, 2016) (allegation of infringement of legal protection sufficient injury for standing).

Nor is this a newly asserted interest—the cities that make up the Cities Initiative have long recognized the critical importance of the Great Lakes water to their cities. For that reason, the Cities Initiative undertook vigorous efforts to ensure the Compact was enacted with all the protections required. (CI Supp. at 7.) The Cities Initiative has been injured because the Compact Council’s decision endangers those protections. That injury is reflected in the resolutions passed by the cities that make up the Cities Initiative. For example, Niagara Falls passed such a resolution endorsing a challenge to the Compact Council’s decision, while “affirm[ing] its commitment to the protection of our water resources.” (*See* Ex. 2.N.)

## **2. Mayor Dickert and the City of Racine have standing.**

As to Mayor Dickert, Waukesha argues he does not have standing because (1) he cannot bring suit representing the interests of the City of Racine or its residents, (2) he has no interests of his own to assert to support standing, and (3) the injury he alleges is insufficient for standing purposes.

The first two points of Waukesha’s criticism do not preclude standing because, as discussed above, Mayor Dickert participates in the Cities Initiative as a representative of his city. But even if that were not the case, contrary to Waukesha’s representations, Mayor Dickert himself would have standing. Courts regularly recognize that mayors have individual interests in their mayoral capacity, rather than simply the interests of the city or its citizens. *See, e.g., Tuney v. Ohio*, 273 U.S. 510, 533 (1929) (mayor has an interest in and responsibility for the “financial condition of the village”); *Jungels v. Pierce*, 825 F.2d 1127, 1130-31 (7th Cir. 1987) (mayor has an interest in

preventing the city's civil service from taking actions that could cause legal troubles); *Jones v. Heyman*, 888 F.2d 1328, 1332-33 (11th Cir. 1989) (mayor has an interest in conducting efficient and productive city council meetings); *cf. Blair v. Migliorini*, 744 F. Supp. 165, 167 n.3 (N.D. Ohio 1990) (recognizing that the City and its mayor can have different interests).

Here, Mayor Dickert has asserted at least two interests that are harmed by the Waukesha decision, and therefore sufficient to confer standing. First, as Mayor Dickert stated, the City of Racine invested considerable sums of money in making the Root River an attractive waterway for public recreation, and the North Beach and Racine Harbor are both key pieces of the city's economy. (Dickert Aff. ¶ 8a, b (CI Supp. Ex. 2).) The Waukesha diversion will damage those interests, thereby impairing Mayor Dickert's interest in the city's financial health. Second, as Mayor Dickert testified, one of his obligations as Mayor is providing fresh water to the electorate and maintaining sustainable waterways. (*Id.* ¶ 3.) Waukesha asserts that is not really one of Mayor Dickert's responsibilities, but offers no support for its claim. That is not sufficient to counteract an interest articulated by Mayor Dickert himself, as the mayor of one of the members of the Cities Initiative. And Waukesha's assertion is wrong. Waukesha correctly observes that under Wisconsin law, a mayor is the chief executive officer of a town. (Waukesha Resp. at 13.) Even outside of Wisconsin, Cities Initiative mayors serve as the CEO for their towns.<sup>4</sup> Waukesha asserts that providing water and complying with environmental laws and regulations is not part of that

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<sup>4</sup> For example, in Ontario, "[i]t is the role of the head of council . . . to act as chief executive officer of the municipality . . . [and] participate in and foster activities that enhance the economic, social and environmental well-being of the municipality and its residents." Municipal Act, 2001, S.O. 2001, c. 25, art. 225, 226.1 (Can.). Randy Hope (Chatham-Kent) and Christian Provenzano (Sault Ste. Marie) of Ontario are examples of Cities Initiative mayors who also serve as their city's chief executive officer. *See* Chatham-Kent, Ontario, By-Law Number 68-2016 at 3 (May 2016); Sault Ste. Marie, Ontario, by-Law 2013-100 at 1 (Dec. 2016). In Michigan, the mayor "shall be the chief executive officer of the city." Public Act 279 of 1909, Sec. 117.3(a) (Mi.).

role, but that is false. The Wisconsin statute setting forth mayoral responsibilities expressly states that “[t]he mayor shall take care that city ordinances and *state laws are observed* and enforced . . .” Wis. Stat. § 62.09(8)(a) (emphasis added).

As to Waukesha’s third criticism, the Cities Initiative’s submissions identify sufficient injury for standing for both the City of Racine and Mayor Dickert. Waukesha takes issue with the asserted injuries by complaining that they are too “speculative” to confer standing. But that is not the case. The injuries Mayor Dickert alleges on both his own behalf and as suffered by the City of Racine are perfectly in line with the type of injuries courts find sufficient to confer standing. In a Seventh Circuit case, *American Bottom Conservancy*, 650 F.3d 652 (7th Cir. 2011), the defendants alleged that the plaintiff organization’s allegations that wildlife would be decreased by destruction of wetlands were “merely speculative.” *Id.* at 659. The trial court agreed, but the Seventh Circuit reversed that decision. *Id.* at 661. The Seventh Circuit found the allegations of likely harm plausible, and held that because the plaintiffs submitted affidavits supporting the alleged harm, that was sufficient for standing purposes. *Id.* at 660. The Seventh Circuit emphasized that “the fact that a loss or other harm on which a suit is based is probabilistic rather than certain does not defeat standing.” *Id.* at 658; *cf. Citizens for a Better Enviro. v. Caterpillar, Inc.*, 30 F. Supp. 2d 1052, 1065 (C.D. Ill. 1998) (finding organizational standing where “there is a realistic danger that the Illinois River will sustain a direct injury in the future”).

Here, the Cities Initiative has submitted an affidavit from Mayor Dickert detailing the harm he believes will occur, based among other things on the information and evidence in Dr. Kinzelman’s report, which is also before the Compact Council. (Baseline Assessment of Water Quality In Support of Root River Watershed Restoration Plan, WAUKESHA001357, Application Vol. 4 at 43 (CI App. Ex. 6).) That information supports that there is a high probability of adverse

effects on the Root River, with corresponding negative effects on the Racine Harbor and North Beach. Those adverse effects will injure the economic health of the city, harming the interests of both Mayor Dickert and the City of Racine. Indeed, one of the Compact’s own findings is that “[f]uture Diversions and Consumptive Uses of Basin Water resources have the potential to significantly impact the environment, economy and welfare of the Great Lakes—St. Lawrence River region.” Compact § 1.3(1)(d). Under Seventh Circuit precedent, that is a sufficiently concrete injury to confer standing. And further, Waukesha argues on its own behalf that a city has responsibilities to provide clean water to its residents and to comply with environmental laws and regulations. (Waukesha Resp. at 13.) The Cities Initiative has shown that the same responsibility of *dozens of other cities* is threatened by the Compact Council’s decision, which is a further injury sufficient for standing.

**II. The Compact Council Should Have Reopened The Public Comment Period After Reducing The Service Area And Associated Water Volume In The Waukesha Application.**

**A. The Compact Council Should Have Reopened the Comment Period When it Substantially Modified Waukesha’s Application.**

In arguing that the Compact Council did not need to reopen the public comment period after reducing the service area and associated water volume in Waukesha’s proposal, Waukesha relies heavily upon the “logical outgrowth” test cited by courts in rulemaking cases adjudicated under the federal Administrative Procedures Act (“APA”). (Waukesha Resp. at 16-19.) The test is used by courts to determine whether an agency must reopen public comment because of changes made to a proposed rule after the close of the comment period. Waukesha asserts that the logical outgrowth test set forth in these cases is the “standard” for determining whether the Compact Council should have allowed for additional public comment. *Id.*



For the reasons outlined below, the Cities Initiative submits that the Compact Council should have reopened public comment under that test. But the current proceeding is not a rulemaking subject to the APA and the logical outgrowth cases in the rulemaking context are not the only source of law to which one can look for guidance when determining whether the Compact Council erred in not reopening public comment. Cities Initiative has cited to other examples of public comment requirements, such as the public participation provisions of the Compact itself and the notice and comment provisions in analogous environmental regulatory regimes. (CI Supp. at 11-15.) Curiously, Waukesha has chosen to ignore these other arguments. The Cities Initiative will address Waukesha's arguments concerning the logical outgrowth test and briefly repeat these other arguments below.

First, the Compact Council's decision not to resolicit public comment fails the "logical outgrowth" test set forth in the rulemaking cases described above and in the Cities Initiative's prior submissions. (CI Supp. at 13-14.) One common formulation of the test is found in a case cited by Waukesha and provides as follows:

An agency satisfies the notice requirement, and need not conduct a further round of public comment, as long as the final rule is a "logical outgrowth" of the rule it originally proposed...a rule is deemed a logical outgrowth if interested parties "should have anticipated" that the change was possible, *and thus reasonably should have filed their comments on the subject during the notice-and-comment period.*

*N.E. Md. Waste Disposal Auth. v. EPA*, 358 F.3d 936, 951-51 (D.C. Cir. 2004) (citations omitted and emphasis added).

Waukesha argues that, based upon various circumstances, the Cities Initiative knew at the time of the comment period that the size of the service area and associated water volume was an issue in the proceeding and was subject to change. (Waukesha Resp. at 19-22.) But this argument misses the point. The Cities Initiative does not dispute that it was aware that the size of the service

area was an issue in the proceeding. What it does dispute is that it and other members of the public should reasonably have been expected to comment upon the technical and environmental aspects of Waukesha's proposal, including in particular the other water supply options under consideration, based upon speculation as to the size of the service area and the volume of water that the Compact Council would ultimately approve. The Compact Council could ultimately have decided on a whole range of outcomes on the issue of the service area and associated water volume. Needless to say, trying to surmise which outcome the Compact Council would ultimately choose and then commenting on the environmental and technical implications of that choice (or a range of choices the Compact Council might have made) would have been a wasteful and inefficient exercise in speculation on the part of the Cities Initiative and other members of the public.

As the Cities Initiative has previously pointed out, what the Compact Council should have done when it reduced the size of the service area and water volume was to require supplemental analysis of the alternative water supply options based upon the lower demand, enter that analysis into the record, and then resubmit the modified application for public comment. (CI at 14-18.) This would not only have ensured a more robust vetting of the findings supporting the Compact Council's decision, but also would have provided the Cities Initiative and other members of the public with an opportunity to comment in a meaningful manner on the proposed application in its modified form.

Second, the terms of the Compact itself strongly suggest that the Compact Council should reopen the comment period when significant modifications are made to a diversion proposal. Section 6.1 provides that the Parties to the Compact recognize the importance and necessity of public participation in the management of water resources in the Basin. Section 6.2 provides that "it is the intent of the Council to conduct public participation process concurrently and jointly with

Regional Review.” Under Section 4.9.3.e, the Compact Council is instructed to use caution when determining whether an application meets the criteria for an exception to the Compact’s ban on diversions.

These provisions, when put together, indicate that public comment is warranted under the Compact when the modifications to a proposed diversion create substantial variance from the application on which the public was initially permitted to comment. Such is the case here. Contrary to Waukesha’s assertion that the changes in the withdrawal quantity were “minor,” the reduction of almost 20 percent in the volume of water allotted to Waukesha (*i.e.*, from 10.1 mg in the original application to 8.2 mgd in the modified application) is hardly insubstantial. (Waukesha Resp. at 25.)

Third, as the Cities Initiative pointed out in its supplemental brief, the notice and comment provisions in several environmental regulatory programs provide instructive guidance on how the Compact Council should address public notice and comment in the present circumstances. (CI Supp. at 14-15.) These programs require or authorize an agency to resolicit public comment when, based upon new information or changed conditions, the agency makes substantial changes to a proposed agency decision that was previously made available for public review. *Id.*

The Cities Initiative has previously pointed to examples of such provisions in the regulations promulgated under the Comprehensive Environmental Response Compensation and Liability Act and the National Environmental Policy Act. *Id.* Other regulatory programs have notice and comment requirements embodying the same concept. For example, the permitting regulations promulgated under the Clean Water Act (“CWA”) authorize the Regional Administrator of the Environmental Protection Agency to reopen the public comment period

during the permitting process if there are “substantial new questions” raised concerning the permit during the comment period:

*If any data information or arguments submitted during the public comment period, including information or arguments required under 124.13, appear to raise substantial new questions concerning a permit, the Regional Administrator may take one or more of the following actions: (1) Prepare a new draft permit, appropriately modified, under 124.6; (2) Prepare a revised statement of basis under 124.7, a fact sheet or revised fact sheet under 124.8 and reopen the comment period under 124.14; or (3) Reopen or extend the comment period under 124.10 to give interested persons an opportunity to comment on the information or arguments submitted.*

40 C.F.R. 124.14(b) (emphasis added). The CWA regulations further provide that these procedural requirements apply to permits issued under other environmental regulatory programs as well: “This part [Part 124] contains EPA procedures for issuing, modifying, revoking and reissuing, or terminating all RCRA, UIC, PSD and NPDES permits . . . .” 40 C.F.R. 124.1(a).

It is hard to argue that “substantial new questions” were not raised about Waukesha’s application during the comment period in this proceeding. As Waukesha points out, there were numerous comments and expressions of concern from members of the public about the size of the service area and associated water volume in the original application. (Waukesha Resp. at 19-22.) The public’s interest in this subject should have led the Compact Council to reopen the comment period when it substantially modified the application by reducing the size of the service area.

Thus, there are numerous examples of notice and comment provisions in other environmental regulatory programs that support the proposition that public comment should be reopened in circumstances similar to those here. And, in a similar vein, at least one court has indicated that changes in a proposed environmental permit may be significant enough to warrant reopening the comment period before the permit is finalized. *Hughey v. Gwinnett Cty.*, 278 Ga. 740, 744 (2004) (administrative law judge should have held evidentiary hearing on issue of

whether changes to final permit were significant enough to require a renewed public notice and comment period).

**B. The Council's Failure To Reopen The Comment Period After It Reduced The Size Of The Service Area And Associated Water Volume in Waukesha's Proposal And To Require Supplemental Technical Analysis Based Upon The Lower Demand Deprived The Cities Initiative And Other Members Of The Public Of The Opportunity To Subject The Modified Proposal To The Type Of Meaningful Review That It Required.**

Waukesha asserts that an evaluation of the alternative water sources was in fact conducted based upon a reduction in the volume of water allotted to Waukesha. In support of this assertion, it points to the analysis in the Wisconsin Department of Natural Resources ("WDNR") Technical Review of the environmental implications of a withdrawal of 8.5 mgd (as opposed to 10.2 mgd in the original proposal). (Waukesha Resp. at 23-24.) That analysis purported to show a significant loss of wetlands and a reduction in surface water levels for Mississippi River Basin supply alternatives. *Id.*

But there are problems with this argument. First, WDNR's analysis was limited to the environmental implications only of a reduced water volume and not to other technical and cost issues associated with the alternative water supply options under consideration. Second, as the Cities Initiative has previously pointed out, WDNR's environmental assessment was flawed in many respects. (CI at 46-49.) For example, it failed to realistically evaluate radium treatment options currently in use by other municipalities in circumstances similar to Waukesha's. (*Id.* at 46-47.) It overstated the impacts to private wells and wetlands by not including Waukesha's existing wells in the analysis (whose continued operation would not have produced an additional environmental impact) and by siting potential new shallow aquifer wells for modeling purposes in close proximity to a sensitive wetland area. (*Id.* at 47.) And it exaggerated the impact of

continued withdrawals of groundwater from the deep aquifer upon Lake Michigan water levels. (*Id.* at 47-49.)

The larger point here is that had the Compact Council reopened the comment period for the modified application and required supplemental analysis, both the Compact Council and the public could have undertaken a more robust review of the implications, both environmental and technical, of the reduction in size and volume for the water supply alternatives under consideration. This in turn would have provided the Compact Council with a more informed basis for making a final decision on Waukesha's proposal.

**III. Waukesha's Suggestion That A Community Within A Straddling County – Or Any Other Community Withdrawing Great Lakes Water – Has No Fixed Bounds On Its Service Area And May Provide Water To Any “Physically Connected” Area Is Unfounded And Would Eviscerate The Compact.**

As already briefed, the service area approved for Waukesha improperly goes beyond the boundaries of the community that sought this exception, an expansion of Great Lakes water usage beyond what is allowed by the Compact. (CI at 23-24.) Waukesha argues that the Compact does not limit a diversion to the political boundaries of a community, but instead should look to the “physically connected system” of the public water supply and set a volume appropriate for that purpose. (Waukesha Resp. 28-29.) The Compact Council already rejected this argument when it denied Waukesha's bid to build out its infrastructure and sweep many other communities into a larger regional water supply with it as the hub. Moreover, that interpretation overlooks the role that political boundaries play in facilitating the Compact's purpose. It would lead to an absurd result that favors out-of-Basin communities over communities within the Basin, and it threatens the Compact's ability to hold off diversions to ever-farther applicants.

First, Waukesha argues that political boundaries are irrelevant, but political boundaries in fact have an important role in the Compact. The Compact's drafters used existing political

boundaries as an objective, readily-understood, and consistently-applied way to limit the scope of exceptions added to the Compact. For instance, they defined “Straddling Community” based on corporate boundaries as of the effective date of the Compact,<sup>5</sup> and the definition of a “Community within a Straddling County” similarly incorporates a fixed political boundary.<sup>6</sup> These type of fixed boundaries avoid communities’ annexing land and creating or merging governmental entities in an attempt to tap into Great Lakes water to which they have no claim. The consistency, clarity, and objectivity that fixed boundaries provide is important to the Purposes of the Compact, which include “[t]o remove causes of present and future controversies” and “[t]o facilitate consistent approaches to Water management across the Basin.” Compact § 1.3(b), (d).

Further, the argument that Wisconsin law places a priority on water service areas and would require Waukesha to provide water beyond its city boundaries (Waukesha Resp. at 28) does not dictate whether the Compact allows that expansion. As detailed in the Cities Initiative’s Initial Submission, the meaning and operation of a Compact is not based on the interpretation sought by one member state or required by one state’s law. (CI at 28-29.) If there is an inconsistency between how Wisconsin structures its water supply or sewer systems and what the Compact would permit a community with a diversion to do, it is Wisconsin law that must bend for the community to begin its diversion under the Compact.

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<sup>5</sup> “**Straddling Community** means any incorporated city, town or the equivalent thereof, wholly within any County that lies partly or completely within the Basin, whose corporate boundary existing as of the effective date of this Compact, is partly within the Basin or partly within two Great Lakes watersheds.” Compact § 1.2.

<sup>6</sup> “**Community within a Straddling County** means any incorporated city, town or the equivalent thereof, that is located outside the Basin but wholly within a County that lies partly within the Basin and that is not a Straddling County.” Compact § 1.2. Within that definition and elsewhere in the Compact, “**County** means the largest territorial division for local governments in a State. The County boundaries shall be defined as those boundaries that exist as of December 13, 2005.” *Id.*

Second, the Compact's treatment of Straddling Communities and Communities in a Straddling County highlights the implicit tie between city or town boundaries and the scope of allowable water service. The Compact includes three types of exceptions to the general prohibition on diversions. *See* Compact § 4.9. Two of the exceptions, for Straddling Communities and for Communities in a Straddling County, deal with a situation where areas outside the Great Lakes Basin would be supplied with Great Lakes Water:

- *A Straddling Community* is a city or town whose corporate boundaries were partly within the Basin when the Compact went into effect. Compact § 1.2. Some portion of a Straddling Community is inside the Great Lakes Basin, and some portion of that same city or town is outside it. The exception that allows the out-of-Basin portion of the city or town to receive Great Lakes Water sets a limit on where that water may flow: “regardless of the volume of Water transferred, all of the Water so transferred shall be used solely for Public Water Supply Purposes *within the Straddling Community*.” Compact § 4.9.1 (emphasis added).
- *A Community within a Straddling County* is an incorporated city or town that is outside the Great Lakes Basin. Compact § 1.2. Unlike a Straddling Community, no portion of the city or town is inside the Great Lakes Basin. The Compact prohibits any new or increased diversion (or transfer) of Great Lakes Water into this city or town, unless it can establish that an exception is warranted. *See* Compact § 4.8. The Compact provides that Water allowed to this city or town “shall be used solely for the Public Water Supply Purposes of the Community Within a Straddling County that is without adequate supplies of potable water.” Compact § 4.9.3.a.

Waukesha, a Community in a Straddling County that wanted to sell water to other towns, reads the exception as allowing it to provide water beyond its political boundaries, so long as the



water will be used for Public Water Supply Purposes. (Waukesha Resp. at 27-29.) A city that is a Straddling Community could not do this, because the Compact requires that water transferred to the out-of-Basin portion of the city can only be used for Public Water Supply Purposes *within the city*. It defies logic that a Community within a Straddling County – a city that is not within the Great Lakes Basin and is seeking an exceptional connection to it – could send water beyond its own boundaries and beyond the reach of the Great Lakes Basin, while a city that actually has one foot in the Basin and one foot outside it could not.

Third, relying on a “physically connected system of . . . facilities” to limit the reach of Great Lakes Water would be no limit at all, an absurd result given the Compact’s protective purpose. Waukesha posits that the limiting factor on the extension of Great Lakes Water is that the water be used for a “Public Water Supply Purpose,” meaning that it be part of a “‘physically connected system’ of facilities.” (See Waukesha Resp. 27-28.) By that logic, building a pipeline that physically connects to the water supply of any community within the Great Lakes basin, or that is permitted to access Great Lakes Water via an Exception, would be enough to permit the supply of water to that area so long as it is for public distribution. If that were the case, there would be no reason for Waukesha to go through the expense and effort it detailed (Waukesha Resp. at 3-4), because it could simply become physically connected to Oak Creek or Milwaukee’s water system, thereby becoming part of that community’s water supply. Waukesha’s interpretation opens the door to far-flung communities tapping into existing Great Lakes public water supplies, presumably with no restrictions. If physical connection is the sole criterion, it is hard to see anything stopping far-flung communities from partnering with in-Basin communities to reach a long straw into the Great Lakes.

Finally, the difference in interpretation put forth by Waukesha and by the Cities Initiative highlights the necessity of the Compact Council’s clarifying the appropriate scope of the service area sooner rather than later. To wait for an application that pushes the boundaries and adopts Waukesha’s argument that it has built or will build a “physical connection” to an existing public water supply risks the kind of future controversies, inconsistency, and “significant adverse impacts of Withdrawals and losses on the Basin’s ecosystem and watersheds” that the Compact was designed to avoid. *See* Compact § 1.3.2.b, d, f.

**IV. The Council Erred In Granting Waukesha’s Diversion Because Waukesha Has A Reasonable Water Supply Alternative.**

**A. The Compact Council Used an Improper Standard to Evaluate Whether Waukesha Had “No Reasonable Water Supply Alternative.”**

Waukesha cannot meet the Compact requirements for a diversion of Great Lakes Water because Waukesha has a reasonable water supply alternative within its own water basin. Waukesha argues that the Compact Council’s interpretation of “no reasonable water supply alternative” is consistent with the intent of the Compact. Waukesha also disputes that the Compact allows for a diversion only as a “last resort.”<sup>7</sup> However, any rational interpretation of the Compact leads to that very conclusion. The Compact does not ask the Compact Council to evaluate whether it is reasonable for a community to choose its existing water supply over Lake Michigan water.

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<sup>7</sup> Waukesha further states that the Community in Straddling County exception was intended for Waukesha and that the Compact would not exist without the inclusion of that provision. (Waukesha Resp. at 39 n.22.) Regardless of whether some legislators had Waukesha’s situation in mind when reviewing the proposed Compact, the fact of the matter is that the exception includes specific criteria, and even Waukesha must show that it meets those criteria. Had they intended to ensure that Waukesha could access Great Lakes water regardless of whether it met those criteria at the time of its application, the drafters could have specifically mentioned Waukesha, just as the Compact specifically carves out the diversion allowed Illinois under a prior court ruling. *See* Compact § 4.14. Moreover, the circumstances of Waukesha’s situation have changed with the passage of more than a decade, and its aquifer is now rebounding. (*See infra* p. 28.)

Instead, the Compact prohibits a diversion unless the community does not have any other reasonable water supply available. The Compact is structured so that a diversion is effectively the last resort when a community does not have a reasonable water supply alternative. The Cities Initiative's interpretation is consistent with the language and stated purpose of the Compact. In contrast, the Wisconsin definition of "reasonable water supply alternative," which the State of Wisconsin's analysis explicitly relied on and which the Compact Council incorporated, deviates from any acceptable definition of "reasonable" and weakens the protective and cautious purposes of the Compact.

The Compact states that a community within a straddling county can obtain a diversion of Great Lakes water only if that community satisfies numerous conditions, including establishing that "[t]here is no reasonable water supply alternative within the basin in which the community is located, including conservation of existing water supplies . . . ." Compact § 4.8.3.d. Both the Cities Initiative and Waukesha agree that "no reasonable water supply alternative" is not defined by the Compact, and that it is appropriate to interpret that term using standard rules of contract interpretation, with the goal of giving meaning to the intent of the parties to the Compact. *See Tarrant Reg'l Water Dist. v. Herrman*, 133 S. Ct. 2120, 2130 (2013) ("Interstate compacts are construed as contracts under the principles of contract law."). However, the interpretation presented by Waukesha and the Compact Council impermissibly distorts the Compact's intent to limit diversions to situations where communities in a straddling county have no reasonable alternative for obtaining drinking water.

The purpose of the Compact is "to protect, conserve, restore, improve and effectively manage the Waters and Water Dependent Natural Resources of the [Great Lakes] Basin . . . ." Compact § 1.3.2.a. Specifically in regard to diversions, the Compact states that "[c]aution shall

be used in determining whether or not the [Diversion] Proposal meets the conditions for this Exception.” Compact § 4.8.3.e. Contrary to the express conservative and cautious purpose of the Compact, Waukesha, the State of Wisconsin, and the Council have interpreted the requirement to show that the community has no reasonable water supply alternative, in such a way as to impermissibly replace the word “reasonable” with the word “equivalent.” Wisconsin defines “reasonable water supply alternative” as “a water supply alternative that is similar in cost to, and as environmentally sustainable and protective of public health as, the proposed new or increased diversion and that does not have greater adverse environmental impacts than the proposed new or increased diversion.” Wis. Stat. § 281.346(1)(ps). This definition has nothing to do with whether the water supply alternative is reasonable, instead it evaluates whether the water supply alternative is equivalent to or as good as the Great Lakes water alternative. That is not what the Compact requires.

Under the standard proposed by Wisconsin and used by the Compact Council,<sup>8</sup> the Compact Council would approve a diversion unless the applicant has a water supply alternative that is as good as using Great Lakes water in terms of cost, environmental impact, and public health. Of course, the Great Lakes are a vast source of clean drinking water – that is exactly why they are protected by the Compact. Very few water supply alternatives would be as good as Great Lakes water under the Wisconsin standard. Interpreting “no reasonable water supply alternative” in this manner is not rational and should be reversed.

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<sup>8</sup> Waukesha argues that the Compact Council is not bound by the Wisconsin definition of “reasonable water supply alternative,” and the Cities Initiative agrees. (*See* Waukesha Resp. at 37; CI at 28.) However, as the Cities Initiative explained in its Written Statement, the Final Decision and the on-the-record deliberation by the Compact Council do not reflect any attempt at setting a clear and consistent standard for “no reasonable water supply alternative.” Instead, the Regional Body, and by extension the Compact Council, appear to have deferred to Wisconsin’s definition. (CI at 27 n.12.)

Waukesha argues that it is the Cities Initiative’s position that the Compact Council cannot consider any individual factors in making its reasonableness determination. (Waukesha Resp. at 36.) This is simply not true. As the Cities Initiative previously explained, there are many appropriate factors that the Council can use to evaluate whether an alternative water supply is reasonable. (CI at 36-39.) The Compact Council can look at the cost and environmental impact of an alternative water supply to determine if it is a reasonable option. The Compact Council erred, however, when it based its findings on the Wisconsin definition of reasonable water supply alternative, and rejected Waukesha’s alternative sources because they had “greater adverse environmental impacts than the proposed diversion” and were not “as protective of public health as the proposed Lake Michigan water supply.” Final Decision §§ 4, 4a, and 4b. The Compact Council compared the water supply alternative to the Lake Michigan water supply instead of determining whether the alternative is reasonable. The Compact Council should have evaluated whether the water supply alternatives are reasonable independent of whether they are as good as the Lake Michigan diversion. In light of its reliance on this inappropriate interpretation, the Compact Council has not established whether Waukesha has no reasonable water supply alternative, and cannot permit the diversion until it does so.

**B. The Compact Council Improperly Rejected the Non-Diversion Water Supply Alternatives.**

The record contains ample evidence that Waukesha has a reasonable water supply alternative within its own Mississippi River basin. Waukesha points to several purported adverse impacts from Waukesha’s alternative water supplies. Waukesha Resp. at 42-45. However, careful analysis of the water supply alternatives, taking into account realistic future water demand, have shown that Waukesha can use its existing water supply sources in a manner that will provide

sufficient drinking water to the community and minimize environmental and public health impacts. (CI at 41-49.)

Waukesha criticizes the water supply alternatives for several reasons, including that they (1) do not provide for sufficient water demand, (2) will adversely impact wetlands, (3) will deplete the deep aquifer, which is interconnected with the Lake Michigan watershed; and (4) will need to be treated for radium. (Waukesha Resp. at 42-45.) First, the technical analyses highlighted by the Cities Initiative and conducted by Nicholas, GZA, and Mead & Hunt, all thoroughly examined future water demand for Waukesha in its existing service area. (See “An Analysis of the City of Waukesha Diversion Application,” originally dated February 2013 and updated November 25, 2013 (collectively the “Nicholas Report”), attachment to WAUKESHA003668 (CI App. Ex. 4); “City of Waukesha’s Application for Diversion of Lake Michigan Water,” April 6, 2015, by Mead and Hunt (“M&H Report”), attachment to WAUKESHA003668 (CI App. Ex. 8); James F. Drought, Jiangeng Cai, and John C. Osborne, July 9, 2015, “Non-Diversion Alternative Using Existing Water Supply With Treatment” (“GZA Report”), attachment to WAUKESHA003668 (CI App. Ex. 9); (discussed at CI at 41-42).) Absent from Waukesha’s Response Brief is the fact that GZA and Nicholas looked at water use trends over the past 10-40 years and determined that the projected future water use estimated by Waukesha is unrealistically high. Using a lower projected future water use has a substantial impact on the significance of any negative environmental or public health impacts of the water supply alternatives.

Waukesha’s next two critiques – that the alternatives impact wetlands and deplete the deep aquifer – were disputed and minimized by the existing technical reports. Most notable is Waukesha’s contention, and the Compact Council’s finding, that continued pumping from the deep aquifer will deplete the aquifer in an unsustainable way. Final Decision § II.3a; (Waukesha Resp.

at 43). However, USGS data show that the deep aquifer has rebounded approximately 50 to 115 feet from 2000 to 2012. GZA Report at 9, attachment to WAUKESHA003668 (CI App. Ex. 9 at 12). This is not a “one-time change” as Waukesha tries to characterize it. (Waukesha Resp. at 43.) The rebound is likely the result of overall decreases in pumping from the deep aquifer caused by lower per capita demand and increased use of shallow groundwater wells in the region over the past 10 years. Based on this data, Waukesha’s continued use of the deep aquifer can be done in a sustainable manner.<sup>9</sup>

The Cities Initiative acknowledges that if a diversion applicant meets all of the other exception conditions, the Compact directs the Compact Council to also consider whether the existing water supply is hydrologically connected to Waters of the Basin. Compact § 4.9.3. Here, WDNR has determined that approximately 30% of Waukesha’s current withdrawals from the deep aquifer are replenished by water from the Lake Michigan Basin—but only 4% of Waukesha’s current withdrawals from the deep aquifer are actually replenished by Lake Michigan loss. (January 2016 WDNR EIS § 4.3.2.1 at 128, WAUKESHA000311 (CI App. Ex. 1 at 1).) While this may be a valid consideration under the Compact, assuming Waukesha can meet all of the other

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<sup>9</sup> Waukesha points to a November 25, 2015 Memo from John Jansen, a Waukesha Water Utility consultant, which concludes that increased pumping from the deep aquifer could cause a decline of water levels. (Waukesha Resp. at 43.) Notably, the Jansen Memo was submitted to the State of Wisconsin after the WDNR public hearings on August 17 and 18, 2015, and after the WDNR public comment period closed on August 28, 2015, but just before Wisconsin submitted the Waukesha application to the Compact Council on January 7, 2016. Further, the Jansen Memo does not acknowledge the recent downward trend in water use in Waukesha and other communities, which will likely continue as it has for the past 40 years. The Jansen Memo also omitted the fact that the City of New Berlin and the Village of Menomonee Falls have shifted much of their public water supply from groundwater to surface water purchased from the City of Milwaukee, and thus, are withdrawing significantly less water from the aquifer, which further supports the continued rebound of the aquifer. (SEWRPC, A Regional Water Supply Plan for Southeastern Wisconsin, Dec. 7, 2010, at 200, 203, WDNR Record at <http://dnr.wi.gov/topic/WaterUse/waukesha/additionalMaterials.html>, Appendices to May 2010 Application Appendix I, volumes I and II (CI App. Exs. 2 & 3).)

diversion conditions (which it cannot), the minimal connectivity does not preclude Waukesha from using its existing water supplies as a reasonable alternative to a Lake Michigan diversion.

Finally, Waukesha rehashes arguments about the presence of radium in the deep aquifer and the need for radium treatment. However, the record has numerous examples of other communities successfully treating for radium in drinking water, including a detailed discussion by the WDNR. (WDNR EIS § 4.2.2.1 at 109, WAUKESHA000292, (discussed at CI at 46).) Other communities, including those with public water systems larger than Waukesha's, effectively treat radium so that their drinking water meets all applicable standards. The fact that other communities manage radium treatment in an effective manner shows that the presence of radium does not make Waukesha's existing deep aquifer water supply unreasonable.

In sum, the Compact Council's determination that Waukesha had no reasonable water supply alternative cannot be supported by a fair review of the facts presented on the record. While Waukesha's existing water supply may not be as good as the Lake Michigan diversion it is seeking, nothing presented by Waukesha or found in the Compact Council's Final Decision proves that Waukesha's water supply alternatives are not reasonable.

**C. The Compact Council Did Not Evaluate the Possibility of a Partial Diversion.**

The Compact provides that a diversion can be approved “only when . . . [t]he need for all or part of the proposed Exception cannot be reasonably avoided through the efficient use and conservation of existing water supplies.” Compact § 4.9.4.a. Waukesha argues that this section only provides for evaluation of water conservation practices and does not require an evaluation of a “split system.” However, a plain reading of the Compact belies Waukesha's interpretation. The Compact requires the Compact Council to determine whether “part of” the proposed diversion can be reasonably avoided by the efficient use of “existing water supplies.” There is no way to do



such an evaluation without looking at whether a “split system” – using some of its existing water supply – would allow Waukesha to avoid part of its requested diversion.

Although Waukesha cites to a cursory rejection of the option to use both Lake Michigan water and Waukesha’s existing water source in the 2013 EIR (Waukesha Resp. at 46), the Final Decision makes no findings on whether part of the diversion can be avoided by efficient use of Waukesha’s existing water supplies. Consequently, the Final Decision does not establish that Waukesha has met the Exception Standard necessary to approve a diversion.

**V. Waukesha’s Efforts To Minimize The Adverse Impacts Of The Root River Discharge Are Unpersuasive.**

In an effort to downplay the significant adverse impacts described in the Cities Initiative’s Written Statement, Waukesha argues that the Compact doesn’t require the diversion to have “no impact” and that Waukesha’s obligation to comply with “state and federal requirements” will be sufficient to mitigate the adverse impacts of the return flow on the Root River. (Waukesha Resp. at 47-50). Waukesha further characterizes the Compact Council’s conclusion that the discharge would have a net positive impact as part of the Compact Council’s “holistic assessment” rather than an improper cost benefit assessment that is not allowed by the Compact. Both arguments are without merit.

**A. The Compact Council’s Decision Lacks Any Requirement That Waukesha Mitigate The Adverse Impacts On The Root River.**

In response to the arguments raised by the Cities Initiative, Waukesha ignores the conclusions of the WDNR and other experts that the return flow may in fact result in an adverse impact on the Root River. Instead, Waukesha repeatedly states that the return flow must meet “federal and state water quality standards,” as if that requirement standing alone is sufficient to mitigate the adverse impacts of the return flow through the Root River. (Waukesha Resp. at 47).

The Cities Initiative acknowledges that Waukesha's return flow will be required to meet federal and state water quality standards. However, that certainly does not mean that these standards will be adequate to ensure that there the return flow does not result in adverse impacts on the Root River. Waukesha does not dispute (nor can it) that the EIS and detailed Technical Review performed by WDNR identified a number of adverse impacts from the Root River discharge.

The federal and state standards that Waukesha references in its reply, while important, do not mitigate these adverse impacts. For example, Waukesha references a phosphorus standard of 0.075 mg/L that it argues will govern its discharge into the Root River. However, Waukesha's own consultants have publicly stated that Waukesha cannot meet that standard on a consistent basis. (City of Waukesha WWTP Phosphorus Operational Evaluation Report, Strand and Associates, June 19, 2014, at 1 (CI App. Ex. 7).) Waukesha also cannot meet the recommended chloride limit of 400 mg/L. (January 2016 WDNR Technical Review at 86, WAUKESHA000104.) Even if these permit limits were to be incorporated into Waukesha's WPDES permit, in the event that Waukesha concludes that it is technically infeasible to comply with these standards, nothing in the Compact Council's Decision prohibits Waukesha from seeking a variance as provided for in Wisconsin Statute Section 283.15(4).

Waukesha also points to the fact that the Final Decision specifically provides that the anti-degradation procedures in Ch. NR 207 of the Wisconsin Administrative Code will be implemented, but then proceeds to accuse the Cities Initiative of misrepresenting how Wisconsin's anti-degradation statute works. (Waukesha Resp. at 47-49.) Without citation to authority, Waukesha claims that Wisconsin's anti-degradation statute does not allow a water-quality-based effluent limitation to be relaxed. (Waukesha Resp. at 49.)

But the Cities Initiative has not and does not make that argument. Rather, the Cities Initiative merely points out that Wisconsin’s anti-degradation statute does not, as Waukesha seems to claim, mandate that Waukesha take steps to mitigate the adverse impacts of the Root River discharge. Rather, as noted in WDNR’s technical review, “[b]oth the Department and EPA agree that the proposed new discharge could result in a ‘significant lowering of water quality’ for some of the wastewater parameters . . . [but this] may be allowed in cases where an applicant proposes a new discharge in order to correct a public health problem.” (January 2016 WDNR Technical Review at 88, WAUKESHA000109.)

In short, compliance with applicable state and federal requirements does not equate to “no adverse impact” on the Root River. The Compact Council erred in approving a diversion that will allow such adverse impacts to occur (or at the very least, approving without imposing a mandate that such adverse impacts be avoided as a condition to the diversion).

**B. The Compact Does Not Allow The Compact Council To Engage In A Cost-Benefit Assessment.**

Acknowledging as it must that the Compact does not allow the Compact Council to engage in a cost-benefit assessment when evaluating whether the return flow through the Root River will have an adverse impact, Waukesha characterizes the Compact Council’s cost benefit analysis as merely an “additional finding which the Council was authorized to consider.” (Waukesha Resp. at 50.) Although the Compact Council’s Declaration of Finding and Final Decision both contain separate sections discussing the alleged benefit that the return flow will have on the Basin salmonid egg collection facility, the Council’s evaluation of the significant and cumulative impacts clearly also rely on this alleged “net environmental benefit” to discount the adverse impact that the return flow will have on the Root River.

The language in the Compact is clear. “The Exception will be implemented so as to ensure that it will result in *no significant individual or cumulative adverse impacts* to the quantity or quality of the Waters and Water Dependent Natural Resources of the Basin.” Compact § 4.9.4.d (emphasis added). The Compact doesn’t carve out an exception allowing the diversion if the adverse impacts of the diversion are outweighed by some speculative benefit that may or may not come to pass.

As such, the Council erred in relying on any alleged positive benefit of the return flow down the Root River as justification of its decision to discount or ignore the negative effect of the return flow down the Root River.

**VI. The Direct Adverse Impact Of This Diversion And Cumulative Impacts That Will Result From The Precedent It Set Were Not Properly Assessed.**

The Cities Initiative, Waukesha, and the Compact Council all agree the diversion must be implemented pursuant to Compact Section 4.9.4d, so as to ensure no significant individual or cumulative adverse impacts result. (CI at 19; Waukesha Resp. at 29; Final Decision §II.10.) What Waukesha and the Compact Council continue to ignore is that (1) the current diversion will have an individual adverse impact on the Root River, and (2) that impact could become cumulative, given that so-called Waukesha’s “unique” circumstances are mirrored by other municipalities near the Great Lakes Basin.

**A. The Council Improperly Approved a Diversion With its Own Direct Adverse Impact.**

As detailed *supra* Section V, the diversion as approved will have an adverse impact on the Root River. Waukesha’s argument on this point is simply that if 100% of the diverted water is returned to Lake Michigan, then there can be no adverse impact. (Waukesha Resp. at 29-30.) However, this argument relies upon an incomplete reading of the Compact.

Compact Section 4.9.4.d requires diversions be implemented so as to ensure “no significant individual or cumulative adverse impacts to the quantity *or quality* of the Waters and *Water Dependent Natural Resources* of the Basin . . .” (emphasis added). Compact Section 1.2 defines “Water Dependent Natural Resources” as “the interacting components of land, Water and living organisms affected by the Waters of the Basin.”

As described *supra* Section V, the current diversion’s return discharge is likely to increase the Root River’s concentration of phosphorus, chloride, or other pathogens, as well as create new adverse impacts during high flow events. Many of these risks do not relate to the diversion’s quantity, but instead concern the quality of the Water and the land components that interact with it. Other risks do relate to the diversion’s quantity, but cannot be addressed by simply foregoing a consumptive use exception, such as mingling Basin water with water from other watersheds. *Compare* Compact § 4.9 (discouraging mingling of waters from different watersheds) *with* Final Decision §II.7a *and* WAUKESHA001318, Application Vol. 4 at 1 (stating that 100% of volume withdrawn will be returned, regardless of source use to fulfill amounts presumably lost to leakage and consumptive use). These are specific, adverse, individual impacts that the Compact forbids, but Waukesha and the Compact Council overlook. At a minimum, then, the multiplier for future applicants that may divert Great Lakes water in contravention of the Compact is one.

**B. The Council’s Approval Created Precedent That Threatens Significant Cumulative Impacts in the Great Lakes Basin.**

Unless and until the Compact Council clarifies its decision, the potential for this adverse impact to the Root River to multiply into an even more significant adverse impact will loom. The Compact Council has stated that no precedent-setting consequences of its approval will adversely impact the Basin’s Water or Water Dependent Natural Resources. Final Decision §II.10a. Waukesha argues no other community has the same combination of circumstances as Waukesha.

(Waukesha Resp. at 31-32.) Both fail to account for multiple Wisconsin communities that meet the factors considered by the Compact Council in its determination of reasonable water supply alternatives, and both fail to account for the potentially cumulative impact of approving return flows that adversely impact the waterways they enter and the Great Lakes Basin as an interrelated whole.

The Compact Council and Waukesha were aware that other communities within straddling counties had radium and water supply issues. The towns of Genesee, Pewaukee, and Brookfield were all noted in the formal record as potential future applicants. (*See* Tr., Feb. 17, 2016 Report of Proceedings, at 39:7-16, 111-12, 113:4-116:10, WDNR, Great Lakes-St. Lawrence River Basin Water Resources Council, Conference of Governors and Premiers, WAUKESHA016225-234, 297-302.) The WDNR also noted that “quite a number” of other communities in Wisconsin face radium issues. (*See* Tr., Feb. 18, 2016 Report of Proceedings, at 33:8-19, WDNR, Great Lakes-St. Lawrence River Basin Water Resources Council, Conference of Governors and Premiers, WAUKESHA016418.)

As the Cities Initiative has argued, the Compact Council’s formulation of “no reasonable water supply alternative” paves the way for each of these communities to seek their own diversion. (CI at 20; *supra* Section IV.) Under the current diversion’s precedent, those communities may also seek a return flow option that adversely impacts the river or creek through which it travels, given the Council’s approval of a similar adverse impact for the Root River. Such precedent poses a significant risk of cumulative harm to both the quantity and the quality of the Basin’s resources.

### **CONCLUSION**

The Cities Initiative seeks the Compact Council’s resolution of errors that arose in the course of considering and approving Waukesha’s application for a diversion, which as the first

such decision has set the standards and procedural framework under which all future applicants would expect to proceed. At this time, this matter is not a judicial review scenario. Rather, the Compact Council has substantial leeway to examine and address the issues raised herein.

The Cities Initiative renews the requests made in its initial Written Statement (CI 58-60), and more particularly asks the Compact Council to begin its inquiry and any resolution of this request for hearing by clarifying the applicable definitions and standards, including those detailed in its submissions as follows:

1. The allowable service area for a diversion to a Community Within a Straddling County under the Compact is limited to the political boundaries of the community seeking the diversion. (*See* CI at 22-23; *supra* pp. 18-22.)
2. “No reasonable water supply alternative” considers (a) whether an alternative would be allowed under existing regulations; (b) whether an alternative is consistent with existing permitted water uses and criteria in the region or with routinely-permitted exemptions granted by regulators; and (c) whether an alternative is feasible. Whether an alternative is reasonable is not based on comparison to Great Lakes water; an alternative may be reasonable even if it is not of the same quality as Great Lakes water or poses additional or different environmental impacts. (CI at 26-41; *supra* pp. 22-25.)
3. Consideration of whether the existing water supply is derived from groundwater that is hydrogeologically interconnected to Waters of the Basin occurs only after the applicant establishes all of the other conditions required for a diversion. (CI at 47-49; *supra* pp. 27-28.)

4. A decision on an application for a diversion under the Community Within a Straddling County exception must include whether the need for part of the proposed exception can be reasonably avoided through efficient use and conservation of existing water supplies. (CI at 50; *supra* pp. 28-29.)
5. Whether a proposed diversion as-implemented would have “no significant individual or cumulative adverse impacts to the quantity or quality of the Waters and Water Dependent Natural Resources of the Basin” under Compact Section 4.9.3.e is determined by whether there is a significant adverse impact, not by a cost-benefit analysis or whether the diversion would have a net benefit. (CI at 50-51, 55; *supra* pp.31-32.)

At a minimum, the Cities Initiative submits that the Compact Council should, for the future of the Compact, the Great Lakes, and all those who are dependent upon this valuable resource, evaluate the standards and definitions presently reflected in the Final Decision to ensure that they are unambiguous and consistent with the Compact and its purposes and, where they are not, to take this opportunity to formally clarify the Compact Council’s intent on those critical issues.

Date: February 6, 2017

Respectfully submitted,

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# EXHIBIT 1

**BY-LAWS OF THE**  
**GREAT LAKES AND ST. LAWRENCE CITIES INITIATIVE**  
(Name of the Corporation incorporated under the  
Illinois General Not For Profit Corporation Act of 1986, as Amended)

**1. INTERPRETATION**

- 1.01 **DEFINITIONS AND INTERPRETATION.** Unless there exists an express provision which contradicts the following definitions or unless the context clearly indicates otherwise, the expression:

“Act” means the Illinois General Not For Profit Corporation Act of 1986;

“board” means the Board of Directors of the Corporation

“by-laws” means the present by-laws as well as any other by-law of the Corporation in force;

“consensus” has the meaning set out in paragraph 7.05 B) of this by-law;

“director” means an individual occupying the position of director of the Corporation;

“local unit of government” includes a regional municipality and a county;

“mayor” means either a mayor of a municipality or the other duly elected chief executive of a local unity of government;

“member” means a member of the Corporation;

“officer” means any officer of the corporation as designated by the Board of Directors;

“simple-majority” means the fifty percent plus one of the votes cast at a meeting;

“special resolution” means a resolution passed by a majority of not less than two-thirds (2/3) of the votes cast on that resolution.

- 1.02 **DEFINITIONS IN THE ACT.** Except for the preceding definitions, words and expressions defined in the Act have the same meaning in the by-laws.

- 1.03 **RULES OF INTERPRETATION.** Unless the context indicates otherwise, the singular includes the plural and vice-versa, the neuter includes the masculine and the feminine and vice-versa, the word “person” includes corporations as well as firms and non-incorporated businesses.

- 1.04 **DISCRETION.** Where the by-laws confer a discretionary authority upon the directors, they shall exercise such power honestly and in good faith, when they deem opportune, in the best interests of the Corporation.
- 1.05 **TITLES.** Titles heading the by-laws serve merely as reference and shall not be construed as being indicative of the interpretation of terms or provisions found in such by-laws.

## **2. OFFICES**

- 2.01 The principal office of the Corporation shall be located at 20 North Wacker Drive, Suite 2700, Chicago, Illinois 60606. The Corporation may have such other offices, either within or without the State of Illinois, as the business of the Corporation may require from time to time. The registered office of the Corporation required by the Act to be maintained in the State of Illinois may be, but need not be, identical with the principal office in the State of Illinois, and the address of the registered office may be changed from time to time by the Board of Directors.

## **3. BY-LAWS**

- 3.01 **MAKING, AMENDING AND REPEALING BY-LAWS.**
- A) Unless the power to make, alter, amend or repeal the by-laws is reserved to the members by the articles of incorporation or applicable law, proposals to make, amend or repeal the by-laws of the Corporation may be made exclusively by the Board of Directors, consistent with paragraph B) of this Section 3.01. As applicable, these by-laws may be amended to provide that no by-laws adopted by the members may be altered, amended or repealed by the Board of Directors.
- B) Subject to the Act and to the articles of incorporation of the Corporation, the Board of Directors may determine the by-laws which govern the functioning of the Corporation and it may adopt, repeal, amend or re-institute any by-law, except as otherwise prohibited by Article 3. Such adoption, repeal, amendment or re-institution shall take effect upon adoption by the Board of Directors, and it shall remain in full force until the next Special General Meeting or annual meeting of members. If such adoption, repeal, amendment or re-institution is not ratified by a majority vote of a quorum of members at such Special General Meeting or annual meeting, it shall cease to be in force from the date of such meeting. For all votes of members under this paragraph, a quorum shall be determined in accordance with Section 12.08 of these by-laws and voting shall be governed by Section 12.10 of these by-laws.

## **4. CORPORATE SEAL**

- 4.01 **FORM.** The directors shall determine the form of the corporate seal.

- 4.02 CONSERVATION AND UTILIZATION. The corporate seal shall be kept at the principal office of the Corporation and only a duly authorized person shall have the authority to affix it to documents emanating from the Corporation.

## **5. DIRECTORS**

### **5.01 COMPOSITION AND DESIGNATION.**

- A) The business and affairs of the Corporation shall be managed by or under the discretion of its Board of Directors. The Board of Directors of the Corporation shall initially consist of sixteen (16) members, and , until changed in accordance with the Act and these by-laws, the number of directors from time to time shall be fixed at an even number of no fewer than ten (10) and no greater than sixteen (16).
- B) The Board of Directors shall consist of an equal number of directors who represent the United States and Canada, with due consideration of geographic distribution. In connection with such consideration to geographical distribution, there will be a director (referred to as “Regional Director”) for each of the following four regions:
- 1) Great Lakes/Ontario;
  - 2) St. Lawrence/Quebec;
  - 3) Upper Lakes (Superior, Michigan, Huron – Minnesota, Michigan, Wisconsin, Illinois, Indiana); and
  - 4) Lower Lakes (Erie, Ontario – Ohio, Pennsylvania, New York).
- C) Richard M. Daley shall have the title of “Founding United States Chairperson” and David Miller shall have the title of “Founding Canadian Chairperson,” but neither shall serve as directors unless otherwise so elected or so designated.

- 5.02 QUALIFICATIONS. In addition to the qualifications contained in the Act, a person is disqualified from being a director of the Corporation if he or she is not a mayor of a municipality (other local unit of government) that is, as of the date of his or her election or within 10 days after the date of his or her election, a member of the Corporation.

- 5.03 FIRST DIRECTORS. The persons who incorporated the Corporation as its first directors shall remain in office until the first meeting of the members.

- 5.04 DESIGNATION AND ELECTION OF DIRECTORS. At each annual meeting, if an election is required, members shall elect the directors by means of a resolution adopted by simple majority. The Board of Directors shall have a nominating committee for selecting candidates for the Board.

- 5.05 TERM IN OFFICE.

- A) Except as otherwise provided in these by-laws, a director shall be elected by the members to hold office for a term expiring at the close of the third annual meeting of members following his/her election or until his/her successor is elected or appointed.
  - B) A director whose term has expired may be re-elected, if otherwise qualified.
- 5.06 RESIGNATION. A director may, at any time, resign from office by forwarding a letter of resignation, by messenger or by registered mail, to the principal office of the Corporation. The resignation of the said director shall become effective when the letter of resignation is sent or at the time specified in it, whichever is later.
- 5.07 DISMISSAL. Unless the articles of incorporation of the Corporation indicate otherwise, a director may be dismissed from his/her office before term, with or without cause, by such members at a special general meeting called for this purpose by means of a resolution adopted by a simple majority. The director who is named in the resolution of dismissal shall be notified of the place, the date and the hour of such meeting within the same delay as required for its calling. The director may attend and may submit to the members a written or oral statement to disclose the reasons for opposition to the resolution of dismissal.
- 5.08 CEASING TO HOLD OFFICE. A director of the Corporation ceases to hold office when he or she dies or resigns, leaves office as mayor or becomes disqualified from serving as a director of the Corporation.
- 5.09 FILLING VACANCY. A vacancy on the Board of Directors may be filled by the directors by way of a resolution adopted by a simple-majority. The director named as a replacement shall hold office for the unexpired portion of the term of his/her predecessor.
- 5.10 REMUNERATION. The directors shall not receive any remuneration for serving as directors of the Corporation. The Board of Directors may adopt a resolution to reimburse directors for reasonable expenses incurred in the performance of their duties.
- 5.11 INDEMNIFICATION.
  - A) PERSONS. The Corporation may indemnify any person who was or is a party, or is threatened to be made a party to any threatened, pending or complete action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation) by reason of the fact that he/she is or was a director, officer, employee or agent of the Corporation, or who is or was serving at the request of the Corporation as a director, officer, employee or agent of any corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him/her in connection with such action, suit or proceeding, if he/she acted in good faith and in a manner he/she reasonably believed to be in, or not opposed to the best interests of the

Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his/her conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he/she reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his/her conduct was unlawful.

B) DERIVATIVE ACTIONS. The Corporation may indemnify any person who was or is a party, or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that he/she is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees) actually and reasonably incurred by him/her in connection with the defense or settlement of such action or suit, if he/she acted in good faith and in a manner he/she reasonably believed to be in, or not opposed to the best interests of the Corporation, and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his/her duty to the Corporation, unless, and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability, but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses as the court shall deem proper.

C) EXTENT. To the extent that a director, officer, employee or agent of the Corporation has been successful, on the merits or otherwise, in the defense of any action, suit or proceeding referred to in Sections 1 and 2 hereof, or in defense of any claim, issue or matter therein, he/she shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him/her in connection therewith.

D) DETERMINATION OF STANDARD. Any indemnification under Sections 1 and 2 hereof (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case, upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he/she has met the applicable standard of conduct set forth in Sections 1 and 2 hereof. Such determination shall be made (1) by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or (2) if such quorum is not obtainable, or, even if obtainable, a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or (3) by the members.

E) ADVANCE PAYMENT. Expenses incurred by defending a civil or criminal action, suit or proceeding may be paid by the Corporation in advance of the final disposition of such action, suit or proceeding, as authorized by the Board of Directors in the specific case, upon receipt of an undertaking or by or on behalf of the director, officer, employee or agent

to repay such amount, unless it shall ultimately be determined that he/she is entitled to be indemnified by the Corporation as authorized in this Article.

F) NON-EXCLUSIVE. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any by-law, agreement, vote of members or disinterested directors, or otherwise, both as to action in his/her official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent, and shall inure to the benefit of the heirs, executors and administrators of such a person.

G) INSURANCE. The Corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or who is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him/her and incurred by him/her in any such capacity, or arising out of his/her status as such, whether or not the Corporation would have the power to indemnify him/her against such liability under the provisions of this Article.

- 5.12 CONFLICT OF INTEREST. Any director who is, in any way whatsoever, directly or indirectly, interested in a contract or proposed contract or other material transaction with the Corporation, shall divulge his/her interest, in accordance with the Act.

## **6. POWERS OF THE DIRECTORS**

- 6.01 PRINCIPLE. The directors shall exercise all the powers of the Corporation, except those that are expressly reserved in the Act for the members.

## **7. MEETINGS OF THE BOARD OF DIRECTORS**

- 7.01 CONVENING OF MEETINGS. Meetings of the directors may be convened at any time by the Chair, the Secretary or any two directors. A notice specifying the place, date and hour of such meeting shall be sent to each director by mail, email, by fax or by messenger or using such other method as is permitted under this by-law, at his/her latest address as shown in the records of the Corporation. If the address of a director is not shown in the records of the Corporation, such notice of convening may be sent to the address, where in the judgment of the sender, it is most likely to be received promptly by the director; a notice of convening shall indicate the place, the date and the hour of the meeting and shall be sent at least fourteen (14) business days prior to the meeting; however, in an emergency, at the discretion of the Chair or the Vice-Chair of the Corporation, the notice of convening may be sent three (3) hours in advance.
- 7.02 ANNUAL MEETING. A meeting of the newly elected directors of the Corporation shall be held each year immediately after the annual general meeting of the members, without any notice of convening, provided that a quorum exists, for the purpose of



electing or appointing officers or other managers of the Corporation and to transact any other business that may come before it.

- 7.03 PLACE OF MEETING. Meetings of the Board of Directors shall be held at the principal office of the Corporation or, if all the directors consent, at any other place which the directors may determine.
- 7.04 QUORUM. A simple majority of the directors shall constitute a quorum for meetings of the Board of Directors. This quorum must be maintained throughout each meeting of the Board of Directors.
- 7.05 VOTE.
- A) Subject to the Act and except as otherwise provided in this by-law, any question submitted to the Board of Directors shall be decided by a consensus of directors present.
  - B) "Consensus" means, in reference to a matter for decision, general acceptance by all directors present at the meeting and eligible to vote on the matter.
  - C) If a meeting of the Board of Directors cannot reach a consensus on a proposed resolution, then a director may make a special motion requiring that the proposed resolution be put to a vote. Such motion, which must be duly seconded, may not be debated and the motion itself will be voted on and will pass by special resolution. When the motion to put a proposed resolution to a vote is adopted, the proposed resolution will be voted on by the directors. A proposed resolution that is the subject of a vote may be passed by a simple-majority.
  - D) Each director may cast one vote and voting shall be by voice unless the person chairing the meeting or two directors present at such meeting request a ballot.
  - E) If a ballot is held, the secretary of the meeting shall serve as scrutineer and count the ballots. Voting by proxy is not permitted at any meeting of the board.
  - F) In the case of an equality of votes, the person chairing the meeting is not entitled to a second or casting vote.
- 7.06 WAIVER OF NOTICE. A director may, in any written manner, waive his/her right to a notice of meeting of the Board of Directors, to any change in the notice or the holding of the meeting. A waiver of notice may be given before, during or after the meeting in question, and attendance of a director at such meeting is a waiver of notice, except when he or she attends the meeting for the purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully convened.
- 7.07 RESOLUTIONS IN LIEU OF MEETING. A written resolution signed by all the directors entitled to vote on that resolution at a meeting of the Board of Directors or its executive committee is as valid as if it had been passed at such meeting. A copy of

each of such resolutions shall be kept with the minutes of the meetings of the Board of Directors or its executive committee.

- 7.08 **ADJOURNMENT OF MEETING.** The person chairing a meeting of the Board of Directors may, with the consent of the majority of directors present, adjourn the meeting to another time and place. The reconvening of any meeting so adjourned may take place without formal notice. If a quorum of directors is present at the reconvened meeting, the directors may validly transact any business which was not completed at the original meeting. The directors who constituted the quorum at the original meeting need not be those constituting the quorum at the reconvened meeting. If a quorum of directors does not exist at the commencement of the reconvened meeting, the meeting is deemed to have ended at the time adjournment was announced.
- 7.09 **RESTRICTED CONSULTATION OF RESOLUTIONS.** Minutes from meetings of the Board of Directors or Executive Committee may be consulted at any time by the members of the Corporation unless otherwise stated by a resolution of the Board of Directors or Executive Committee restricting access to specific documents.
- 7.10 **PARTICIPATION BY TELEPHONE.** If all directors so consent, a meeting of the Board of Directors may be held using any means which allows all participants to communicate verbally among one another, for example, via telephone. If they do so, they shall be deemed to have attended the meeting and the secretary of the meeting shall so note in the minutes.

## **8 OFFICERS AND OTHER MANAGERS**

### **8.01 DESIGNATION, APPOINTMENT OR ELECTION**

- A) Designation of Officers. Unless otherwise specified by the Board of Directors, which may, subject to the *Act*, modify, restrict or supplement such duties and powers, the officers of the Corporation, if designated and if appointed, shall be as follows and have the following duties and powers associated with their positions, provided that the Board of Directors may by resolution designate other officers of the Corporation:
- 1) Chair of the Board: The Chair shall be appointed from among the directors by resolution of the board passed by a simple-majority, and shall preside at all meetings of the members and of the Board of Directors, and shall carry out such other duties and have such responsibilities as may be specified by the Board of Directors.
  - 2) Vice-Chair of the Board: The Vice-Chair shall be appointed from among the directors by resolution of the Board of Directors passed by a simple-majority. The Vice-Chair shall execute the duties of the Chair when the Chair is unavailable or otherwise unable to act, shall carry out such other

duties and have such responsibilities as may be specified by the Board of Directors.

- 3) Past-Chair of the Board: The office of Past-Chair shall be occupied by the individual who most recently held the office of Chair before the individual currently serving as Chair, and shall carry out such duties and have such responsibilities as may be specified by the Board of Directors.
- 4) Secretary: the Secretary shall be appointed from among the directors by resolution of the Board of Directors passed by a simple-majority. The Secretary shall be responsible for ensuring that accurate minutes of all proceedings at meetings of the members and of the Board of Directors are maintained, that proper notice is sent to members, directors, the public accountant and members of committees. The Secretary shall be the custodian of all books, papers, records, documents and other instruments belonging to the Corporation and shall carry out such duties and have such responsibilities as may be specified by the Board of Directors.
- 5) Treasurer: The Treasurer shall be appointed from among the directors by resolution of the Board of Directors passed by a simple-majority. The Treasurer shall be responsible for ensuring proper accounting records as required by the Act are maintained and, under the direction of the Board of Directors, shall supervise the safekeeping of securities and disbursement of the funds of the Corporation. The Treasurer shall ensure that the Board of Directors is apprised of the financial position of the Corporation and have such other powers and duties as the Board of Directors may specify.
- 6) Executive Director: The directors may, from time to time, appoint an individual to the office of executive director (the “Executive Director”), whose responsibilities shall include, but not be limited to, the following:
  - a. Carry out the day-to-day administrative duties of the Corporation;
  - b. Provide policy and administrative advice to the Board of Directors and Officers;
  - c. Carry out the directions of the Board of Directors and Officers;
  - d. Represent the Board of Directors, Officers, and Members in various forums where the Corporation has an interest;
  - e. Interact with partners and stakeholders on efforts relating to the Great Lakes and St. Lawrence;
  - f. Sign contracts, checks, and other documents on behalf of the Corporation;

- g. Recruit and retain staff, contractors, interns, and others to help carry out the work of the Corporation;
- h. Direct the work of the staff, contractors, interns, and others providing services to the Corporation;
- i. Conduct such research and generate such reports as may be needed by the Corporation;
- j. Manage the finances of the Corporation using good business practices;
- k. Carry out such other duties and assignments as may be requested by the Board of Directors and Officers or as may be necessary for the efficiency and effectiveness of the Corporation.

B) Chair and Vice-Chair. Between the Chair and the Vice-Chair, at any time and from time to time, one shall be from the United States and one shall be from Canada.

- 8.02 QUALIFICATIONS. The Chair, Vice-Chair, the Secretary and the Treasurer must be members of the Board of Directors. However, assistant secretaries and/or assistant treasurers are not obligated to be members of the Board of Directors.
- 8.03 TERM IN OFFICE. Unless the directors of the Corporation take action to dismiss an officer before the end of his or her term, and except for the Executive Director, such officer shall perform the duties which relate to his/her office for a term of one year.
- 8.04 HOLDING MORE THAN ONE OFFICE. Except for the offices of Chair, Vice-Chair and Executive Director, one person may hold more than one office at the same time.
- 8.05 RESIGNATION AND DISMISSAL. Any officer or official may resign from his or her office or other role by forwarding a letter of registered mail or messenger, to the principal office of the Corporation. The directors may dismiss any officer or official of the Corporation at any time and may elect or appoint another in his/her place according to the provisions of these by-laws. The dismissal of an officer or official, however, is subject to the provisions of the contract between the officer or official and the Corporation, if such contract exists.
- 8.06 REMUNERATION. Remuneration of the officers or officials of the Corporation shall be fixed by the Board of Directors.
- 8.07 POWERS AND DUTIES. Subject to the articles of incorporation of the Corporation, the directors shall determine the powers of its officers and other managers. The directors may delegate to the officers and other officials all of their powers, except those reserved

exclusively for the directors or those which require the approval of the members of the Corporation. The officers and officials shall also have those powers which are normally exercised by their office or role, or which are given to their office by the Act. In the case of absence, incapacity, refusal or negligence to act or for any other motive that the directors deem reasonable, the Board of Directors may delegate the powers of an officer or official to any other officer or official for a period of time which they deem appropriate.

## **9 EXECUTIVE COMMITTEE**

- 9.01 **APPOINTMENT AND DISMISSAL.** There shall be an Executive Committee composed of the Chair, the Vice-Chair, the Past-Chair, the Secretary, the Treasurer and four (4) Regional Directors appointed by the Board of Directors, as long as they remain in such positions of the Corporation and subject to dismissal from the Executive Committee by the Board of Directors. The Board of Directors may dismiss, with or without cause, any member of the Executive Committee.
- 9.02 **VACANCIES.** The Board of Directors may fill any vacancy existing, for whatever reason, on the Executive Committee from among its members.
- 9.03 **MEETINGS.** The Chair or any other person named by the Board of Directors may convene a meeting of the Executive Committee by following the procedure established for the convening of meetings of the Board of Directors. The Chair of the Corporation shall preside as chairperson at all meetings of the Executive Committee, or if he or she fails to act, the members present shall appoint a chairperson from among themselves. The Secretary of the Corporation shall act as secretary of the meetings of the Executive Committee, unless the members of the committee decide otherwise. A written resolution signed by all the members of the Executive Committee shall have the same validity as if it had been adopted at a meeting of the Executive Committee.
- 9.04 **QUORUM.** A simple majority of the members of the Executive Committee shall constitute a quorum of its meetings.
- 9.05 **POWERS.** The Executive Committee shall exercise all the powers of the Board of Directors except those which, according to the Act, must be exercised by the directors or require the approval of the members, as well as those powers which the directors, by resolution, expressly reserve for themselves. The Executive Committee shall render account of its activities at each meeting of the Board of Directors and the directors may modify, confirm or nullify any decision taken by the Executive Committee, subject to the rights of third parties and members in good standing.
- 9.06 **REMUNERATION.** The members of the executive committee of the Corporation shall not receive any remuneration for serving on the committee.

## **10 MEMBERS**

- 10.01 CATEGORIES. The Corporation shall have one category of members; only persons meeting the eligibility criteria outlined in the following paragraphs may become members of the Corporation.
- 10.02 MEMBERS. Any municipality or other local unit of government in either Canada or the United States, which meets the eligibility criteria outlined in Section 10.01 and
- a) is interested in furthering the objectives of the Corporation;
  - b) forwards a request to that effect to the Board of Directors;
  - c) has such request for membership accepted by the Board of Directors; and
  - d) pays the amounts required by the Board of Directors.
- may become a member of the Corporation.
- 10.03 ELIGIBILITY CRITERIA FOR MEMBERS. Any municipality or other local unit of government with jurisdiction over a geographical area located on the shoreline of the Great Lakes or St. Lawrence River Basin, or inland therefrom in limited circumstances, whether located in the United States or in Canada, is eligible to apply for membership in the Corporation.
- 10.04 CERTIFICATES. The Corporation may issue certificates evidencing membership and shall approve their form and wording.
- 10.05 ANNUAL CONTRIBUTIONS. The directors shall fix and revise, as appropriate, the annual contribution of the membership of the Corporation. These amounts shall be paid in money and the annual assessment shall be payable before the date of the general annual meeting of members. Directors shall determine contributions payable by members based upon demographic criteria.
- 10.06 SUSPENSION AND EXPULSION. Any member contravening any provision of the Corporation's by-laws or whose conduct or activities are harmful or incompatible with the Corporation's good name, may be suspended or expelled from the Corporation. To be valid, said suspension or expulsion must be adopted by a resolution of the Board of Directors and must be approved by at least three-quarters (3/4) of the members of the Corporation present at a special general meeting duly convened for that purpose; the member being suspended or expelled must be provided with written notice of the proposed suspension or expulsion (including the reasons for the proposed suspension or expulsion) twenty (20) days before the special general meeting of members, and the member may present his/her motives for opposing his/her suspension or expulsion. Members' approval of the resolution introduced by the Board of Directors to suspend or expel the member shall nonetheless be final and no appeal shall be allowed.

- 10.07 RESIGNATION. A member may resign to the Secretary of the Corporation by registered mail or messenger. A member's resignation will take effect when the directors accept it or sixty days after it is sent, whichever occurs first. In any case, such letter of resignation shall not free the member from the payment of any assessment due to the Corporation before his resignation takes effect.

## **11 ANNUAL CONFERENCE AND HOST CITIES FOR ANNUAL CONFERENCES**

- 11.01 ANNUAL CONFERENCES. Each year, preferably between June 1 and August 31, the Corporation shall hold an annual conference in one of the municipalities from which a member or members of the Corporation come. The Corporation shall send notices of convening for the annual conference not only to members of the Corporation, but also to several participants from various sectors related to the Great Lakes and St. Lawrence; the main objective of the annual conference shall be to address key issues facing the Great Lakes and St. Lawrence River.

- 11.02 HOST CITIES FOR ANNUAL CONFERENCES.

- A) The directors alone shall determine the criteria to be used to choose host cities. A host city shall be a member of the Corporation.
- B) In choosing the host cities, directors shall, if possible, adhere to the policy of alternating between Canadian and American cities.

## **12 ANNUAL MEETINGS OF MEMBERS**

- 12.01 ANNUAL MEETING. Preferably, the annual meeting of the members of the Corporation shall be held in the same place and at the same time as the annual conference of the year in question, or at any other place in Canada or in the United States, on the date and at the time that the members may determine by resolution. The annual meeting shall be held once in each calendar year. The annual meeting shall be held to receive the report of the public accountant on the financial statements of the Corporation, to elect directors, to appoint an auditor and to transact any other business which by law it may transact. Any annual meeting may be convened as special general meeting and may transact any business which by law may be transacted at a special general meeting.
- 12.02 SPECIAL GENERAL MEETING. A special general meeting of the regular members of the Corporation may be convened by the directors at the principal office of the Corporation or elsewhere, as they determine (such meeting a "Special General Meeting").
- 12.03 CONVENING BY MEMBERS. Special meetings of the members of the Corporation may be convened at the request of at least 5% of its members. Such requests shall indicate in general terms the purpose of the meeting, shall be signed by those members requesting the meeting and shall be deposited at the principal office of the Corporation. On receipt of such request, it is incumbent on the Chair to convene the meeting within twenty-one days according to the by-laws of the Corporation. If the meeting is not convened within twenty-one days after the

requisition is deposited at the registered office of the Corporation, any member who signed the requisition may convene the meeting in accordance with the normal procedures of the Corporation.

- 12.04 **NOTICE OF CONVENING - TIME.** Notice of the time and place of a meeting of members shall be given in the manner and subject to the terms and conditions of section 14.06 of this by-law to each member entitled to vote at the meeting and other persons entitled to notice according to the following time depending on the method used for giving notice:
- A) if notice is being given by mail, courier or personal delivery, at least 30 days and not more than 60 days before the day on which the meeting is to be held; and
  - B) if notice is being given by telephonic, electronic or other communication facility, at least 30 days and not more than 35 days before the day on which the meeting is to be held.
- 12.05 **CONTENT OF NOTICE.** A notice of convening of a meeting of members shall indicate the place, the date and the hour of the meeting. A notice of annual meeting need not specify the purpose of the meeting unless it is convened to confirm a by-law or to decide on any other matter which must be submitted to a special general meeting. A notice of a special general meeting shall indicate the nature of the special business to be transacted in sufficient detail to permit each member to form a reasoned judgment thereon and the text of any special resolutions to be submitted to the meeting.
- 12.06 **WAIVER OF NOTICE.** An annual or special general meeting of members may lawfully be held at any time and for any purpose without the notice required by the Act or by the by-laws, if all the members entitled to attend the meeting waive notice of the meeting by letter, by fax or any other written form. Such waiver of notice may take place either before, during or after the meeting. Moreover, attendance of a member at a meeting constitutes a waiver of notice except where he attends the meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully convened.
- 12.07 **CHAIRING THE MEETING.** The Chair of the Board of Directors shall preside as the person chairing at meetings of members. In his/her absence, the Vice-Chair shall chair the meeting. If otherwise entitled to vote, the person chairing the meeting may vote as a member, but unless otherwise indicated in the articles of incorporation of the Corporation, is not entitled to a second or casting vote in the case of an equality of votes.
- 12.08 **QUORUM.** Unless the articles of incorporation of the Corporation indicate otherwise, the presence (including by proxy) of 25% of the members at a meeting of members shall constitute a quorum. Once a quorum has been attained at the commencement of a meeting of members, the members present may proceed with the business of the meeting, notwithstanding the fact that such quorum is not maintained all during the meeting.
- 12.09 **ADJOURNMENT.** Should a quorum not exist at the commencement of a meeting of members, the members present may adjourn the meeting until a quorum is attained. The resumption of any meeting so adjourned may take place without formal notice, provided that a



quorum exists, and the members present may proceed with the business for which the adjourned meeting was originally convened.

- 12.10 VOTE. Any question submitted to a meeting of members of the Corporation shall be decided by a vote cast by voice unless a ballot is requested or unless the person chairing the meeting designates another manner of voting. At any meeting of members, the statement by the person chairing the meeting that a resolution has been adopted or rejected unanimously or by a particular majority constitutes conclusive evidence of the adoption or rejection of such resolution without requiring further evidence as to the number or percentage of votes cast in favor or against it. Voting by proxy shall be permitted at meetings of the members of the Corporation. Ordinarily for a member, if the member is a municipality its mayor, and if the member is some other local unit of government its elected senior executive, will be the representative of a member who will attend and vote at all meetings of members. The Secretary must be informed of any such designation in writing before the beginning of the meeting.
- 12.11 RESOLUTIONS. The Corporation shall send a call for resolutions electronically to all members of the Corporation at least five (5) months before each annual meeting. In order to submit a resolution, the member must be in good standing with the Corporation. The call for resolutions shall include a submission deadline, to be at least three (3) months prior to the annual meeting, as well as a template for the resolutions. Resolutions received after the deadline that cannot be processed in time for consideration at the annual meeting will be held for action by the Board at the next mid-year Board of Directors meeting. Resolutions proposed at the annual meeting and not submitted through the following process will not be considered but referred for action by the Board at the mid-year Board of Directors meeting. The Board of Directors, at their discretion, may consider resolutions at the Annual Meeting outside this timeline and process if they deem it in the best interests of the Corporation.
- A) Review of Submitted Resolutions: The Board of Directors delegates authority to review and approve resolutions for consideration at the annual meeting to the Corporation's Operations Committee. The Operations Committee shall determine whether resolutions are consistent with existing policy statements, approved resolutions, the overall mission of the Corporation, and are not otherwise inconsistent with the goals and objectives of the Corporation and its members ("Corporation's Policies"). In reviewing resolutions for consideration at the annual meeting:
- 1) The Operations Committee shall evaluate the resolution in relation to the Corporation's Policies and may object to those resolutions which are not consistent.
  - 2) Disputes between or among local governments are not considered appropriate for resolutions.

After reviewing all submitted resolutions, the Operations Committee shall present its recommendations regarding resolutions to consider at the annual meeting to

the Board of Directors. Subject to Board agreement, for those resolutions deemed consistent with the Corporation's Policies, the Operations Committee shall contact the submitting member and notify them at least sixty (60) days prior to the annual meeting that the resolution will be considered by the membership at the annual meeting. The submitting member shall also be notified that the mayor or the mayor's designated representative shall introduce the resolution to the membership at the annual meeting.

If a resolution is deemed incompatible with the Corporation's Policies by the Operations Committee, the Operations Committee may propose an amendment consistent with the original intent of the resolution, but makes it compatible with the Corporation's Policies. Subject to Board agreement, the Operations Committee will notify submitting members at least sixty (60) days prior to the annual meeting that the resolution was found incompatible with the Corporation's Policies, provide reasoning for the decision, and present the proposed amendment. The submitting member will be given an opportunity to consider the proposed amendment and if they feel they cannot accept the proposed amendment, they will have the opportunity to present a case for the resolution to the Operations Committee. If no agreement can be reached between the Operations Committee and the member regarding the amendment, the member may choose to bring the resolution to the annual meeting for consideration by the membership. The member must notify the Board and Operations Committee thirty days in advance of the annual meeting in writing of their intent to take the resolution to the membership for consideration.

- B) Voting at the Annual Meeting on Submitted Resolutions: Approved resolutions with any amendments proposed by the Operations Committee, as well as resolutions not agreed to by the Operations Committee but put forth to the membership for consideration by a member, will be sent to members at least thirty (30) days prior to the annual meeting. The presentation and voting on resolutions will be as follows:

- 1) Resolutions approved by the Operations Committee: Resolutions will be presented and discussed at the annual meeting. The Board of Directors will introduce each resolution, except that those submitted by members without approval of the Operations Committee and Board of Directors will be introduced by such members. The floor will then be opened by the Chair for discussion on the resolution. At this time, amendments to the resolutions from members may be brought forth and considered. Approval of resolutions shall follow the voting procedure outlined in Section 12.10 of the by-laws. Only members of the Corporation, or their authorized proxies, shall be allowed to participate in the voting procedure. Resolutions and amendments receiving a majority vote will be considered approved.

- 2) Resolutions not approved by the Operations Committee: After resolutions approved by the Operations Committee have been presented, discussed and voted on, the Chair will then move to consider resolutions not approved by the Operations Committee. The member that submitted the resolution will be asked to present the resolution. The Chair will then call a vote of the membership to consider the resolution. If 2/3 of the membership votes in favor of considering the resolution then the floor will be open for discussion on the resolution and a vote to approve the resolution will be held. The resolution will pass if it receives a majority vote. If a 2/3 majority to consider the resolution is not achieved, then the resolution will not be considered by membership.

### **13 FINANCIAL YEAR AND PUBLIC ACCOUNTANT**

- 13.01 **FINANCIAL YEAR.** The financial year of the Corporation shall end on August 31 in each year, or on any other date that the directors may determine.
- 13.02 **PUBLIC ACCOUNTANT.** Each year, the members shall appoint an auditor at their annual meeting. His remuneration shall be fixed by the members or by the Board of Directors if this power has been delegated to them by the members. No director or officer of the Corporation shall be appointed as its public accountant. If for any reason the public accountant ceases to perform his/her duties before the expiration of his/her term, the directors may appoint his/her replacement, who shall perform the duties of public accountant until the expiry of his/her predecessor's term.
- 13.03 **MEETINGS OF MEMBERS.** The public accountant of the Corporation may attend all meetings of its members and shall receive all notices and other communications that a member has the right to receive. The public accountant may waive his/her rights to a notice. The public accountant has the right to be heard at meetings of members and may assist it in its deliberations, and in particular, in such deliberations that will benefit from his/her technical expertise.

### **14 CONTRACTS, BILLS OF EXCHANGE, BANKING AND NOTICE**

- 14.01 **CONTRACTS.** In the absence of a decision by the Board of Directors to the contrary, deeds, contracts, securities, obligations and other documents requiring the signature of the Corporation may be signed by the Chair, the Vice-Chair, the Past-Chair or the Executive Director. The Board of Directors may also authorize, in general or specific terms, any officer or director to sign any document in the name of the Corporation.
- 14.02 **BILLS OF EXCHANGE.** Checks and other bills of exchange drawn, accepted or endorsed in the name of the Corporation shall be signed by any officer or official so authorized by the Board of Directors. Any one of an officer, official or other person duly authorized may endorse bills of exchange for deposit in the account of the Corporation or may give bills of

exchange to its bank or financial institution for collection. Such bills of exchange may be endorsed “for deposit” or “for collection” over to the Corporation’s bank or financial institution by means of a stamp or other mechanical device carrying the Corporation’s name. Any such officer or official or other person duly authorized may have discussions, make settlements and establish credit limits on behalf of the Corporation with its bank or financial institution. Such officers, officials or other persons duly authorized may also receive all canceled checks, bank statements and sign any form of settlement of account, receipt or verification required by such bank or financial institution.

- 14.03 DEPOSITS. The funds of the Corporation shall be deposited to its credit in one or more banks or financial institutions that the director may determine by resolution.
- 14.04 SAFEKEEPING. Securities belonging to the Corporation may be deposited in safekeeping in any bank or financial institution that the directors may determine by resolution. No securities so deposited may be withdrawn unless a written authorization from the Corporation, signed by a representative duly authorized by a resolution of the directors, which may be in general or specific terms, is presented to the bank or financial institution.
- 14.05 THIRD-PARTY MANDATES. No provision of these by-laws shall be interpreted in such a way as to prevent the Corporation, if it sees fit and as approved by a resolution of the directors adopted by a simple majority, from mandating a third party to carry out any aspect of the administration and/or management of the Corporation’s affairs, subject to the provisions of the Act.
- 14.06 NOTICE – METHOD. Any notice (which term includes any communication or document) to be given (which term includes sent, delivered or served), pursuant to the Act, the articles, the by-laws or otherwise, to a member, director, officer or member of a committee of the Board of Directors or to the public accountant shall be sufficiently given:
- A) if delivered personally, to the person to whom it is to be given or to such person’s address as shown in the records of the Corporation or, in the case of notice to a director, to the latest address as shown in the last notice that was sent by the Corporation; or
  - B) if mailed, to such person at such person’s address as shown in the records of the Corporation or, in the case of notice to a director, to the latest address as shown in the last notice that was sent by the Corporation by prepaid ordinary or air mail; or
  - C) if sent by courier, to such person at such person’s address as shown in the records of the Corporation or, in the case of notice to a director, to the latest address as shown in the last notice that was sent by the Corporation; or
  - D) if sent to such person by telephonic, electronic or other communication facility, at such person’s address or contact information for that purpose as shown in the records of the Corporation; or
  - E) if provided in the form of an electronic document, in accordance with Section 101.80(g)(4) of the Act.

14.07 **IRREGULARITIES.** The accidental omission to give any notice to any members, director, officer, member of a committee of the Board of Directors or public accountant, or the non-receipt of any notice by any such person where the Corporation has provided notice in accordance with the by-laws or any error in any notice not affecting its substance, shall not invalidate any action taken at any meeting to which the notice pertained or otherwise founded on such notice.

## **15. REPEAL OF PRIOR BY-LAWS AND EFFECTIVE DATE**

15.01 **REPEAL OF PRIOR BY-LAWS.** All prior by-laws of the Corporation shall be repealed in their entirety upon the coming into force of this by-law, without prejudice to any actions taken by or on behalf of the Corporation under or by the authority of such prior by-laws. Neither the enactment of this by-law nor the repeal of the prior by-laws of the Corporation shall invalidate any past act of any director, officer, member or other person, including, without limitation, resolutions of the Board or of the members enacted or passed pursuant to any prior by-law, it being the intention that this by-law shall speak only from the date it comes into force and effect, without in any way affecting any resolution duly passed or any act done, or any right existing, acquired, established, accruing or accrued, under any prior by-law of the Corporation.

# EXHIBIT 2

# EXHIBIT 2A



**TOWN OF AJAX**

65 Harwood Avenue South  
Ajax ON L1S 2H9  
[www.ajax.ca](http://www.ajax.ca)

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David Ullrich, Executive Director  
Great lakes and St. Lawrence Cities Initiative  
20 North Wacker Dr., #2700,  
Chicago,  
Illinois 60606

September 21, 2016

**Re: Waukesha Water Diversion Application**

Thank you for your correspondence to the Town of Ajax, regarding the above noted matter. Please be advised that the following resolution was passed by Ajax Town Council at its meeting held September 19, 2016:

That the Great lakes and St. Lawrence Cities Initiative model resolution opposing the approval of the Waukesha water diversion application be endorsed

If you require further information please contact me at 905-619-2529 ext 3342 or [alexander.harras@ajax.ca](mailto:alexander.harras@ajax.ca)

Sincerely,

Alexander Harras  
Manager of Legislative Services/Deputy Clerk



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**TOWN OF AJAX****RESOLUTION****OPPOSING THE APPROVAL OF THE WAUKESHA WATER DIVERSION  
APPLICATION**

**WHEREAS**, the Great Lakes and St. Lawrence River Basin represents approximately 20% of the world's surface freshwater resource and supports the third largest economy in the world; and

**WHEREAS**, on December 13, 2005, the Great Lakes Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin, and the Premiers of Ontario and Quebec signed the Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement (the "Agreement"), and the Governors endorsed the companion Great Lakes—St. Lawrence River Basin Water Resources Compact (the "Compact"), which was later approved by the United States Congress and signed by the President, banning new water diversions from the Basin except in communities located in counties straddling the water division line between the Great Lakes-St. Lawrence Basin and other basins; and

**WHEREAS**, the City of Waukesha, WI, is located in Waukesha County, a county straddling the basin division line; and

**WHEREAS**, the City of Waukesha applied to the Wisconsin Department of Natural Resources under the exception for a "Community within a Straddling County" to use Lake Michigan as its source of drinking water (the "Waukesha Application"); and

**WHEREAS**, the Compact requires proposals for diversions to satisfy seven specific conditions; and

**WHEREAS**, the Regional Body, after having reached an agreement on a Declaration of Finding and a set of conditions for the application, forwarded its recommendation to the Compact Council, and that all eight Great Lakes states voted in favor of the Waukesha Application; and

**WHEREAS**, on June 21, 2016, the Compact Council issued its Final Decision approving the Waukesha Application with Conditions; and

**WHEREAS**, the Waukesha Application does not meet the terms of the Agreement nor the Compact, and the precedent-setting nature of the Final Decision to approve the Application is of great concern to the Mayors of the Great Lakes and St. Lawrence Cities Initiative; and

**WHEREAS**, the approved service area still contains parts of communities which are not part of the City of Waukesha and which have not demonstrated a need for the water, amounting to a clear violation of the Compact; and

**WHEREAS**, this broader service area is not a "Community within a Straddling County" as defined and required by the exception conditions in the Agreement and Compact; and

**WHEREAS**, there are reasonable water supply alternatives to meet the drinking water quantity and quality needs of the City of Waukesha; and

**WHEREAS**, the impacts of the proposed return flow of water through the Root River to Lake Michigan are likely to have adverse impacts on the ecosystem and to the urban shores of the mouth of the River; and

**WHEREAS**, the Conditions for Approval were not subject to public comment while debated by the Regional Body and Compact Council despite the Compact's requirement that all relevant information be available to the public for comment; and

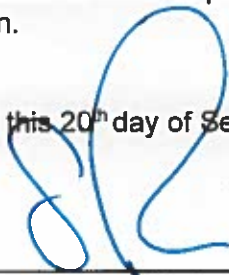
**WHEREAS**, the Regional Body review process did not provide adequate opportunity for public comment as only one public meeting was held in the City of Waukesha, and that hundreds of public comments against the Application did not appear to be considered during the Regional Body or Compact Council process.

**THEREFORE, BE IT RESOLVED**, that the Town of Ajax affirms its commitment to the protection of our water resources by calling on the Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin, and their representatives on the Compact Council to reconsider their Final Decision to approve the Waukesha Application; and

**BE IT FURTHER RESOLVED**, that the Town of Ajax supports challenges by the Great Lakes and St. Lawrence Cities Initiative to the Compact Council's approval of the Waukesha Application under procedures adopted by the Compact Council, which may include requesting a hearing and initiating judicial review of the Final Decision; and

**BE IT FINALLY RESOLVED**, that the Town of Ajax urges the Governors and Premiers of the Regional Body and Compact Council, consistent with good public policy, to reverse its approval of the Waukesha diversion application and ensure that the provisions of the Compact are strictly applied in this and any future application in order to protect the finite water resources of the Great Lakes and St. Lawrence River basin.

Signed this 20<sup>th</sup> day of September, 2016



---

Mayor S. Parish  
Town of Ajax

# EXHIBIT 2B



# BEACONSFIELD

EXTRAIT du procès-verbal de la séance ordinaire du Conseil municipal de la Ville de Beaconsfield, tenue à l'Hôtel de Ville, 303, boulevard Beaconsfield, Beaconsfield, Québec, le lundi 19 décembre 2016 à 20 h

EXTRACT from the minutes of the City of Beaconsfield's regular Municipal Council meeting, held at City Hall, 303 Beaconsfield Boulevard, Beaconsfield, Quebec, on Monday, December 19, 2016, at 8:00 p.m.

## RÉSOLUTION NO 2016-12-543

### **Opposition à l'approbation de la demande de transfert d'eau de la Ville de Waukesha - #2016-12-06498**

ATTENDU QUE le bassin des Grands Lacs et du Saint-Laurent représente environ 20 % des ressources mondiales en eau douce de surface et qu'il est à la base de la troisième économie mondiale; et

ATTENDU QUE le 13 décembre 2005, les gouverneurs des États de l'Illinois, de l'Indiana, du Michigan, du Minnesota, de New York, de l'Ohio, de la Pennsylvanie et du Wisconsin, ainsi que les premiers ministres de l'Ontario et du Québec ont signé l'Entente sur les ressources en eaux durables du bassin des Grands Lacs et du fleuve Saint-Laurent (l'Entente) créant le Conseil régional des Grands Lacs et du Saint-Laurent (Conseil régional) et que les mêmes gouverneurs ont signé le Pacte des Grands Lacs (le Pacte), qui a ensuite été approuvé par le Congrès américain et signé par le Président et que ces documents interdisent les transferts d'eau hors du bassin des Grands Lacs et du Saint-Laurent sauf pour les collectivités situées dans un comté chevauchant la ligne de partage des eaux entre le bassin des Grands Lacs et du Saint-Laurent et d'autres bassins; et

ATTENDU QUE la ville de Waukesha, au Wisconsin, fait partie du Comté de Waukesha, qui chevauche ladite ligne de partage des eaux; et

ATTENDU QUE la Ville de Waukesha a déposé une demande de transfert d'eau du lac Michigan afin de l'utiliser comme source d'alimentation en eau potable, selon l'exception prévue pour une « collectivité située dans un comté chevauchant la ligne de partage des eaux » auprès du Wisconsin Department of Natural Resources (demande); et

ATTENDU QUE le Pacte requiert que les demandes de transfert d'eau respectent sept critères spécifiques; et

ATTENDU QUE le Conseil Régional, après être parvenu à un accord sur une Déclaration de Conformité et une série de conditions, a fait part de ses recommandations au Conseil du Pacte, et que les huit États des Grands Lacs ont voté en faveur de la demande de Waukesha; et

## RESOLUTION NO. 2016-12-543

### **Opposition to the approval of the water diversion application by the City of Waukesha - #2016-12-06498**

WHEREAS, the Great Lakes and St. Lawrence River Basin represents approximately 20% of the world's surface freshwater resource and supports the third largest economy in the world; and

WHEREAS, on December 13, 2005, the Great Lakes Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin, and the Premiers of Ontario and Quebec signed the Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement (the "Agreement"), and the Governors endorsed the companion Great Lakes—St. Lawrence River Basin Water Resources Compact (the "Compact"), which was later approved by the United States Congress and signed by the President, banning new water diversions from the Basin except in communities located in counties straddling the water division line between the Great Lakes-St. Lawrence Basin and other basins; and

WHEREAS, the City of Waukesha, WI, is located in Waukesha County, a county straddling the basin division line; and

WHEREAS, the City of Waukesha applied to the Wisconsin Department of Natural Resources under the exception for a "Community within a Straddling County" to use Lake Michigan as its source of drinking water (the "Waukesha Application"); and

WHEREAS, the Compact requires proposals for diversions to satisfy seven specific conditions; and

WHEREAS, the Regional Body, after having reached an agreement on a Declaration of Finding and a set of conditions for the application, forwarded its recommendation to the Compact Council, and that all eight Great Lakes states voted in favor of the Waukesha Application; and





# BEACONSFIELD

ATTENDU QUE le 21 juin 2016, le Conseil du Pacte rendu une décision finale en faveur de la demande de Waukesha avec conditions; et

ATTENDU QUE la demande de Waukesha ne respecte pas les termes de l'Entente ni du Pacte et que la jurisprudence causée par la Décision Finale en faveur de la demande est une source de préoccupation pour les maires de l'Alliance des Villes des Grands Lacs et du St-Laurent; et

ATTENDU QUE l'aire de service approuvée contient toujours des parcelles de territoire de plusieurs collectivités qui ne font pas partie de la Ville de Waukesha et qui n'ont pas démontré de besoin d'alimentation en eau potable, ce qui constitue une violation du Pacte; et

ATTENDU QUE cette aire de service plus large ne constitue pas une « collectivité située dans un comté chevauchant la ligne de partage des eaux » tel que défini et requis par l'exception de l'Entente et du Pacte; et

ATTENDU QUE des alternatives raisonnables d'approvisionnement en eau existent afin de répondre aux besoins en eau potable de la Ville de Waukesha tant en termes de quantité que de qualité; et

ATTENDU QUE le retour des eaux vers le lac Michigan par la rivière Root générera des impacts potentiellement négatifs sur l'écosystème de la rivière et aux berges urbaines situées à son embouchure; et

ATTENDU QUE les conditions posées par le Conseil Régional n'ont pas été soumises aux commentaires du public lorsque débattues par le Conseil Régional et le Conseil du Pacte malgré l'exigence du Pacte de soumettre toute information pertinente aux commentaires du public; et

ATTENDU QUE la démarche d'examen du Conseil régional n'a pas offert au public les conditions adéquates pour s'exprimer étant donné la tenue d'une seule séance d'audience publique, ayant eu lieu à Waukesha même, et compte tenu que les centaines de commentaires du public s'opposant à la demande de Waukesha semblent avoir été largement ignorés durant le processus du Conseil Régional et du Conseil du Pacte.

Il est proposé par la conseillère K. Messier, appuyé par le conseiller P. Demers et **RÉSOLU À L'UNANIMITÉ :**

WHEREAS, on June 21, 2016, the Compact Council issued its Final Decision approving the Waukesha Application with Conditions; and

WHEREAS, the Waukesha Application does not meet the terms of the Agreement nor the Compact, and the precedent-setting nature of the Final Decision to approve the Application is of great concern to the Mayors of the Great Lakes and St. Lawrence Cities Initiative; and

WHEREAS, the approved service area still contains parts of communities which are not part of the City of Waukesha and which have not demonstrated a need for the water, amounting to a clear violation of the Compact; and

WHEREAS, this broader service area is not a "Community within a Straddling County" as defined and required by the exception conditions in the Agreement and Compact; and

WHEREAS, there are reasonable water supply alternatives to meet the drinking water quantity and quality needs of the City of Waukesha; and

WHEREAS, the impacts of the proposed return flow of water through the Root River to Lake Michigan are likely to have adverse impacts on the ecosystem and to the urban shores of the mouth of the River; and

WHEREAS, the Conditions for Approval were not subject to public comment while debated by the Regional Body and Compact Council despite the Compact's requirement that all relevant information be available to the public for comment; and

WHEREAS, the Regional Body review process did not provide adequate opportunity for public comment as only one public meeting was held in the City of Waukesha, and that hundreds of public comments against the Application did not appear to be considered during the Regional Body or Compact Council process.

It is moved by Councillor K. Messier, seconded by Councillor P. Demers and **UNANIMOUSLY RESOLVED:**



# BEAconsFIELD

QUE la Ville de Beaconsfield réitère son engagement à la protection de nos ressources en eau en demandant aux gouverneurs des États de l'Illinois, de l'Indiana, du Michigan, du Minnesota, de New York, de l'Ohio, de la Pennsylvanie et du Wisconsin, ainsi qu'à leurs représentants au sein du Conseil du Pacte, de reconsidérer leur Décision Finale en faveur de la demande de Waukesha; et

QUE la Ville de Beaconsfield appuie les mesures de contestation entreprises par l'Alliance des Villes des Grands Lacs et du St-Laurent auprès du Conseil du Pacte au sujet de la décision d'approuver la demande de la Ville de Waukesha, selon les procédures établies en vertu du Pacte. Celles-ci incluent la possibilité de déposer une pétition pour l'obtention d'une audience auprès du Conseil du Pacte ainsi que la possibilité d'intenter une requête de révision judiciaire de la Décision Finale; et

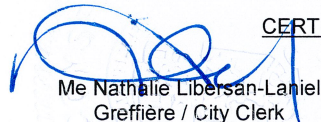
QUE la Ville de Beaconsfield exhorte les gouverneurs et les premiers ministres du Conseil Régional et du Conseil du Pacte, en cohérence avec les bonnes pratiques de politiques publiques, de révoquer leur approbation de la demande de transfert d'eau de la Ville de Waukesha et de veiller à ce que les dispositions du Pacte soient strictement appliquées à cette demande et à toute demande ultérieure, afin de protéger les ressources limitées en eau du bassin des Grands Lacs et du fleuve Saint-Laurent.

THAT the City of Beaconsfield affirms its commitment to the protection of our water resources by calling on the Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin, and their representatives on the Compact Council to reconsider their Final Decision to approve the Waukesha Application; and

THAT the City of Beaconsfield supports challenges by the Great Lakes and St. Lawrence Cities Initiative to the Compact Council's approval of the Waukesha Application under procedures adopted by the Compact Council, which may include requesting a hearing and initiating judicial review of the Final Decision; and

THAT the City of Beaconsfield urges the Governors and Premiers of the Regional Body and Compact Council, consistent with good public policy, to reverse its approval of the Waukesha diversion application and ensure that the provisions of the Compact are strictly applied in this and any future application in order to protect the finite water resources of the Great Lakes and St. Lawrence River Basin.

COPIE CERTIFIÉE CONFORME

  
Me Nathalie Libersan-Laniel  
Greffière / City Clerk

CERTIFIED TRUE EXTRACT

# EXHIBIT 2C





# **Town of The Blue Mountains**

32 Mill Street, P.O. Box 310, Thornbury, ON N0H 2P0

Tel: (519) 599-3131 • Fax: (519) 599-7723

Toll Free: 1-888-BLU-MTNS (1-888-258-6867)

info@thebluemountains.ca • www.thebluemountains.ca

September 7, 2016

Moved by: R.J. Gamble

Seconded by: Michael Martin

**WHEREAS** the Great Lakes and St. Lawrence River Basin represents approximately 20% of the world's surface freshwater resource and supports the third largest economy in the world; and

**WHEREAS**, on December 13, 2005, the Great Lakes Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin and the Premiers of Ontario and Quebec signed the Great Lakes – St. Lawrence River Basin Sustainable Water Resources Agreement (the "Agreement"), and the Governors endorsed the companion Great Lakes – St. Lawrence River Basin Water Resources Compact (the "Compact"), which was later approved by the United States Congress and signed by the President, banning new water diversions from the Basin except in communities located in counties straddling the water division line between the Great lakes-St. Lawrence Basin and other basins; and

**WHEREAS** the City of Waukesha, WI, is located in Waukesha County, a County straddling the basin division line; and

**WHEREAS** the City of Waukesha applied to the Wisconsin Department of Natural Resources under the exception for a "Community within a Straddling County" to use Lake Michigan as its source of drinking water (the "Waukesha Application"); and

**WHEREAS**, the Compact requires proposals for diversions to satisfy seven specific conditions; and

**WHEREAS** the Regional Body, after having reached an agreement on a Declaration of Finding and a set of conditions for the application, forwarded its recommendation to the Compact Council, and that all eight Great Lakes states voted in favour of the Waukesha Application; and

**WHEREAS** on June 21, 2016 the Compact Council issued its Final Decision approving the Waukesha Application with Conditions; and



WHEREAS the Waukesha Application does not meet the terms of the Agreement not the Compact, and the precedent-setting nature of the Final Decision to approve the Application is of great concern to the Mayors of the Great Lakes and St. Lawrence Cities Initiative; and

WHEREAS the approved service area still contains parts of communities which are not part of the City of Waukesha and which have not demonstrated a need for the water, amounting to a clear violation of the Compact; and

WHEREAS this broader service area is not a "Community within a Straddling County" as defined and required by the exception conditions in the Agreement and Compact; and

WHEREAS there are reasonable water supply alternatives to meet the drinking water quantity needs of the City of Waukesha; and

WHEREAS the impacts of the proposed return flow of water through the Root River to Lake Michigan are likely to have adverse impacts on the ecosystem and to the urban shores of the mouth of the River; and

WHEREAS the Conditions for Approval were not subject to public comment while debated by the Regional Body and Compact Council despite the Compact's requirement that all relevant information be available to the public for comment; and

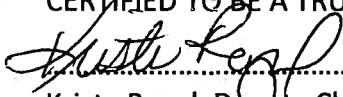
WHEREAS the Regional Body review process did not provide adequate opportunity for public comment as only one public meeting was held in the City of Waukesha, and that hundreds of public comments against the Application did not appear to be considered during the Regional Body or Compact Council process.

THEREFORE, BE IT RESOLVED that the Town of The Blue Mountains, County of Grey, Province of Ontario, Canada affirms its commitment to the protection of our water resources by calling on the Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin, and their representatives on the Compact Council to reconsider their Final Decision to approve the Waukesha Application; and

BE IT FURTHER RESOLVED THAT the Town of The Blue Mountains, County of Grey, Province of Ontario, Canada supports challenges by the Great Lakes and St. Lawrence Cities Initiative to the Compact Council's approval of the Waukesha Application under procedures adopted by the Compact Council, which may include requesting a hearing and initiating judicial review of the Final Decision; and

BE IT FINALLY RESOLVED THAT the Town of The Blue Mountains, County of Grey, Province of Ontario, Canada, urges Governors and Premiers of the Regional Body and Compact Council, consistent with good public policy, to reverse its approval of the Waukesha division application and ensure that the provisions of the Compact are strictly applied in this and any future application in order to protect the finite water resources of the Great Lakes and St. Lawrence River basin Carried.

CERTIFIED TO BE A TRUE COPY

  
.....  
Krista Royal, Deputy Clerk

# EXHIBIT 2D



The Corporation of  
**THE TOWNSHIP of CARLING**

2 West Carling Bay Road, Nobel, ON P0G 1G0

Phone: 705-342-5856 • Fax: 705-342-9527

December 14, 2016

RE: Opposing the Approval of the Waukesha Water Division Application

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At the regular meeting of Council for the Township of Carling held December 12, 2016  
Council passed the following resolutions:

**16-122.6a**

**Moved by Councillor Crookshank  
Seconded by Councillor Larson**

WHEREAS the Great Lakes and St. Lawrence River Basin represents approximately 20% of the world's surface freshwater resource and supports the third largest economy in the world; and,

WHEREAS, on December 13, 2005, the Great Lakes Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin, and the Premiers of Ontario and Quebec signed the Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement (the "Agreement"), and the Governors endorsed the companion Great Lakes—St. Lawrence River Basin Water Resources Compact (the "Compact"), which was later approved by the United States Congress and signed by the President, banning new water diversions from the Basin except in communities located in counties straddling the water division line between the Great Lakes-St. Lawrence Basin and other basins; and

WHEREAS, the City of Waukesha, WI, is located in Waukesha County, a county straddling the basin division line; and

WHEREAS, the City of Waukesha applied to the Wisconsin Department of Natural Resources under the exception for a "Community within a Straddling County" to use Lake Michigan as its source of drinking water (the "Waukesha Application"); and

WHEREAS, the Compact requires proposals for diversions to satisfy seven specific conditions; and

WHEREAS, the Regional Body, after having reached an agreement on a Declaration of Finding and a set of conditions for the application, forwarded its recommendation to the Compact Council, and that all eight Great Lakes states voted in favor of the Waukesha Application; and

WHEREAS, on June 21, 2016, the Compact Council issued its Final Decision approving the Waukesha Application with Conditions; and

WHEREAS, the Waukesha Application does not meet the terms of the Agreement nor the Compact, and the precedent-setting nature of the Final Decision to approve the Application is of great concern to the Mayors of the Great Lakes and St. Lawrence Cities Initiative; and

WHEREAS, the approved service area still contains parts of communities which are not part of the City of Waukesha and which have not demonstrated a need for the water, amounting to a clear violation of the Compact; and

WHEREAS, this broader service area is not a "Community within a Straddling County" as defined and required by the exception conditions in the Agreement and Compact; and

WHEREAS, there are reasonable water supply alternatives to meet the drinking water quantity and quality needs of the City of Waukesha; and

WHEREAS, the impacts of the proposed return flow of water through the Root River to Lake Michigan are likely to have adverse impacts on the ecosystem and to the urban shores of the mouth of the River; and

WHEREAS, the Conditions for Approval were not subject to public comment while debated by the Regional Body and Compact Council despite the Compact's requirement that all relevant information be available to the public for comment; and

WHEREAS, the Regional Body review process did not provide adequate opportunity for public comment as only one public meeting was held in the City of Waukesha, and that hundreds of public comments against the Application did not appear to be considered during the Regional Body or Compact Council process.

NOW THEREFORE BE IT RESOLVED that the Township of Carling affirms its commitment to the protection of our water resources by calling on the Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin, and their representatives on the Compact Council to reconsider their Final Decision to approve the Waukesha Application; and

BE IT FURTHER RESOLVED that the Township of Carling supports challenges by the Great Lakes and St. Lawrence Cities Initiative to the Compact Council's approval of the Waukesha Application under procedures adopted by the Compact Council, which may include requesting a hearing and initiating judicial review of the Final Decision; and

BE IT FURTHER RESOLVED that the Township of Carling urges the Governors and Premiers of the Regional Body and Compact Council, consistent with good public policy, to reverse its approval of the Waukesha diversion application and ensure that the provisions of the Compact are

strictly applied in this and any future application in order to protect the finite water resources of the Great Lakes and St. Lawrence River basin; and,

BE IT FINALLY RESOLVED that a copy of this resolution be forwarded to the Great Lakes and St. Lawrence Cities Initiative.

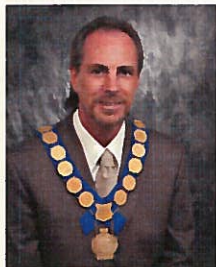
If you require further information, please do not hesitate to contact Megan Bonenfant at 705-342-5856 ext. 404 or [mbonenfant@carlingtownship.ca](mailto:mbonenfant@carlingtownship.ca).

Sincerely,

A handwritten signature in black ink, appearing to read 'Megan Bonenfant', written over a horizontal line.

Megan Bonenfant  
Deputy Clerk

# EXHIBIT 2E



*Randy R. Hope*



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*Municipality of Chatham-Kent*

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December 6, 2016

To Whom It May Concern:

Re: Opposing the approval of the Waukesha Water Diversion Application

Please note at the Municipality of Chatham-Kent Council meeting held on December 5, 2016, Council approved the following motion:

**WHEREAS**, the Great Lakes and St. Lawrence River Basin represents approximately 20% of the world's surface freshwater resource and supports the third largest economy in the world; and

**WHEREAS**, on December 13, 2005, the Great Lakes Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin, and the Premiers of Ontario and Quebec signed the Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement (the "Agreement"), and the Governors endorsed the companion Great Lakes—St. Lawrence River Basin Water Resources Compact (the "Compact"), which was later approved by the United States Congress and signed by the President, banning new water diversions from the Basin except in communities located in counties straddling the water division line between the Great Lakes-St. Lawrence Basin and other basins; and

**WHEREAS**, the City of Waukesha, WI, is located in Waukesha County, a county straddling the basin division line; and

**WHEREAS**, the City of Waukesha applied to the Wisconsin Department of Natural Resources under the exception for a "Community within a Straddling County" to use Lake Michigan as its source of drinking water (the "Waukesha Application"); and

**WHEREAS**, the Compact requires proposals for diversions to satisfy seven specific conditions; and

**WHEREAS**, the Regional Body, after having reached an agreement on a Declaration of Finding and a set of conditions for the application, forwarded its recommendation to the Compact Council, and that all eight Great Lakes states voted in favor of the Waukesha Application; and

**WHEREAS**, on June 21, 2016, the Compact Council issued its Final Decision approving the Waukesha Application with Conditions; and

**WHEREAS**, the Waukesha Application does not meet the terms of the Agreement nor the Compact, and the precedent-setting nature of the Final Decision to approve the



Application is of great concern to the Mayors of the Great Lakes and St. Lawrence Cities Initiative; and

**WHEREAS**, the approved service area still contains parts of communities which are not part of the City of Waukesha and which have not demonstrated a need for the water, amounting to a clear violation of the Compact; and

**WHEREAS**, this broader service area is not a "Community within a Straddling County" as defined and required by the exception conditions in the Agreement and Compact; and

**WHEREAS**, there are reasonable water supply alternatives to meet the drinking water quantity and quality needs of the City of Waukesha; and

**WHEREAS**, the impacts of the proposed return flow of water through the Root River to Lake Michigan are likely to have adverse impacts on the ecosystem and to the urban shores of the mouth of the River; and

**WHEREAS**, the Conditions for Approval were not subject to public comment while debated by the Regional Body and Compact Council despite the Compact's requirement that all relevant information be available to the public for comment; and

**WHEREAS**, the Regional Body review process did not provide adequate opportunity for public comment as only one public meeting was held in the City of Waukesha, and that hundreds of public comments against the Application did not appear to be considered during the Regional Body or Compact Council process.

**THEREFORE, BE IT RESOLVED**, that the Municipality of Chatham-Kent affirms its commitment to the protection of our water resources by calling on the Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin, and their representatives on the Compact Council to reconsider their Final Decision to approve the Waukesha Application; and

**BE IT FURTHER RESOLVED**, that the Municipality of Chatham-Kent supports challenges by the Great Lakes and St. Lawrence Cities Initiative to the Compact Council's approval of the Waukesha Application under procedures adopted by the Compact Council, which may include requesting a hearing and initiating judicial review of the Final Decision; and

**BE IT FINALLY RESOLVED**, that the Municipality of Chatham-Kent urges the Governors and Premiers of the Regional Body and Compact Council, consistent with good public policy, to reverse its approval of the Waukesha diversion application and ensure that the provisions of the Compact are strictly applied in this and any future application in order to protect the finite water resources of the Great Lakes and St. Lawrence River basin.

Signed this 5th day of December, 2016

  
\_\_\_\_\_  
Mayor Randy Hope  
Municipality of Chatham-Kent

# EXHIBIT 2F



# THE CORPORATION OF THE TOWN OF COBOURG

LEGISLATIVE SERVICES DEPARTMENT  
VICTORIA HALL  
55 KING STREET WEST  
COBOURG, ONTARIO, K9A 2M2

Telephone: (905) 372-4301  
Toll Free 1-888-972-4301  
Fax: (905) 372-7558  
[www.cobourg.ca](http://www.cobourg.ca)

File No.C00 AIT

September 19, 2016

David A. Ullrich, Executive Director  
Great Lakes and St. Lawrence Cities Initiative  
20 North Wacker Drive, Suite 2700  
Chicago, Illinois 60606

Dear David A. Ullrich:

Re: In support of the City of Waukesha, Wisconsin, USA resolution **opposing** the approval of the Waukesha Water Diversion Application.

This letter is being sent to acknowledge your request to Council of the Town of Cobourg to support the City of Waukesha, Wisconsin, USA resolution **opposing** the approval of the Waukesha Water Diversion Application.

Town of Cobourg Council passed the following resolution at the Regular Council Meeting on September 19, 2016,:

*WHEREAS, the Great Lakes and St. Lawrence River Basin represents approximately 20% of the world's surface freshwater resource and supports the third largest economy in the world; and*

*WHEREAS, on December 13, 2005, the Great Lakes Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin, and the Premiers of Ontario and Quebec signed the Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement (the "Agreement"), and the Governors endorsed the companion Great Lakes—St. Lawrence River Basin Water Resources Compact (the "Compact"), which was later approved by the United States Congress and signed by the President, banning new water diversions from the Basin except in communities located in counties straddling the water division line between the Great Lakes-St. Lawrence Basin and other basins; and*

*WHEREAS, the Town of Cobourg, is located along Lake Ontario in the Province of Ontario and is an active Great Lakes Coalition Member Municipality;*

*WHEREAS, it is acknowledged that the City of Waukesha applied to the Wisconsin Department of Natural Resources under the exception for a "Community within a Straddling County" to use Lake Michigan as its source of drinking water (the "Waukesha Application"); and*

*WHEREAS, the Compact requires proposals for diversions to satisfy seven specific conditions; and*

*WHEREAS, the Regional Body, after having reached an agreement on a Declaration of Finding and a set of conditions for the application, forwarded its recommendation to the Compact Council, and that all eight Great Lakes states voted in favor of the Waukesha Application; and*



# THE CORPORATION OF THE TOWN OF COBOURG

LEGISLATIVE SERVICES DEPARTMENT  
VICTORIA HALL  
55 KING STREET WEST  
COBOURG, ONTARIO, K9A 2M2

Telephone: (905) 372-4301  
Toll Free 1-888-972-4301  
Fax: (905) 372-7558  
[www.cobourg.ca](http://www.cobourg.ca)

*WHEREAS, on June 21, 2016, the Compact Council issued its Final Decision approving the Waukesha Application with Conditions; and*

*WHEREAS, the Waukesha Application does not meet the terms of the Agreement nor the Compact, and the precedent-setting nature of the Final Decision to approve the Application is of great concern to the Mayors of the Great Lakes and St. Lawrence Cities Initiative; and*

*WHEREAS, the approved service area still contains parts of communities which are not part of the City of Waukesha and which have not demonstrated a need for the water, amounting to a clear violation of the Compact; and*

*WHEREAS, this broader service area is not a "Community within a Straddling County" as defined and required by the exception conditions in the Agreement and Compact; and*

*WHEREAS, there are reasonable water supply alternatives to meet the drinking water quantity and quality needs of the City of Waukesha; and*

*WHEREAS, the impacts of the proposed return flow of water through the Root River to Lake Michigan are likely to have adverse impacts on the ecosystem and to the urban shores of the mouth of the River; and*

*WHEREAS, the Conditions for Approval were not subject to public comment while debated by the Regional Body and Compact Council despite the Compact's requirement that all relevant information be available to the public for comment; and*

*WHEREAS, the Regional Body review process did not provide adequate opportunity for public comment as only one public meeting was held in the City of Waukesha, and that hundreds of public comments against the Application did not appear to be considered during the Regional Body or Compact Council process;*

*NOW THEREFORE, BE IT RESOLVED THAT the Town of Cobourg, Ontario affirms its commitment to the protection of the Great Lakes water resources by calling on the Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin, and their representatives on the Compact Council to reconsider their Final Decision to approve the Waukesha Application; and*

*BE IT FURTHER RESOLVED, that the Town of Cobourg, Ontario supports challenges by the Great Lakes and St. Lawrence Cities Initiative to the Compact Council's approval of the Waukesha Application under procedures adopted by the Compact Council, which may include requesting a hearing and initiating judicial review of the Final Decision; and*

*BE IT FINALLY RESOLVED, that in support of the resolution of the City of Waukesha, WI, a county straddling the basin division line; the Town of Cobourg Council urge the Governors and Premiers of the Regional Body and Compact Council, consistent with good public policy, to reverse its approval of the Waukesha diversion application and ensure that the provisions of the Compact are strictly applied*



# THE CORPORATION OF THE TOWN OF COBOURG

LEGISLATIVE SERVICES DEPARTMENT  
VICTORIA HALL  
55 KING STREET WEST  
COBOURG, ONTARIO, K9A 2M2

Telephone: (905) 372-4301  
Toll Free 1-888-972-4301  
Fax: (905) 372-7558  
[www.cobourg.ca](http://www.cobourg.ca)

*in this and any future application in order to protect the finite water resources of the Great Lakes and St. Lawrence River basin; and*

*FURTHER THAT the resolution be circulated to Prime Minister Trudeau, Premier Wynn, MPP Kathryn McGarry, Minister of Natural Resources and Forestry, the Great Lakes and St. Lawrence Initiative and to the International Joint Commission for the Great Lakes.*

338-16

**Carried**

The Town of Cobourg support your efforts to oppose the approval of the Waukesha Water Diversion Application.

Yours very truly,

Lorraine V. Brace,  
Municipal Clerk

LVB/ns

p.c. Prime Minister Justin Trudeau  
Premier Kathleen Wynn  
MPP Kathryn McGarry / Minister of Natural Resources and Forestry  
Mayor Denis Coderre, Chair Great Lakes and St. Lawrence Cities Initiative  
International Joint Commission for the Great Lakes



**Town of Cobourg**

## **RESOLUTION**

### **IN SUPPORT Of the CITY OF WAUKESHA, WISCONSIN, USA OPPOSING THE APPROVAL OF THE WAUKESHA WATER DIVERSION APPLICATION**

**WHEREAS**, the Great Lakes and St. Lawrence River Basin represents approximately 20% of the world's surface freshwater resource and supports the third largest economy in the world; and

**WHEREAS**, on December 13, 2005, the Great Lakes Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin, and the Premiers of Ontario and Quebec signed the Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement (the "Agreement"), and the Governors endorsed the companion Great Lakes—St. Lawrence River Basin Water Resources Compact (the "Compact"), which was later approved by the United States Congress and signed by the President, banning new water diversions from the Basin except in communities located in counties straddling the water division line between the Great Lakes-St. Lawrence Basin and other basins; and

**WHEREAS**, the Town of Cobourg, is located along Lake Ontario in the Province of Ontario and is an active Great Lakes Coalition Member Municipality;

**WHEREAS**, it is acknowledged that the City of Waukesha applied to the Wisconsin Department of Natural Resources under the exception for a "Community within a Straddling County" to use Lake Michigan as its source of drinking water (the "Waukesha Application"); and





**WHEREAS**, the Compact requires proposals for diversions to satisfy seven specific conditions; and

**WHEREAS**, the Regional Body, after having reached an agreement on a Declaration of Finding and a set of conditions for the application, forwarded its recommendation to the Compact Council, and that all eight Great Lakes states voted in favor of the Waukesha Application; and

**WHEREAS**, on June 21, 2016, the Compact Council issued its Final Decision approving the Waukesha Application with Conditions; and

**WHEREAS**, the Waukesha Application does not meet the terms of the Agreement nor the Compact, and the precedent-setting nature of the Final Decision to approve the Application is of great concern to the Mayors of the Great Lakes and St. Lawrence Cities Initiative; and

**WHEREAS**, the approved service area still contains parts of communities which are not part of the City of Waukesha and which have not demonstrated a need for the water, amounting to a clear violation of the Compact; and

**WHEREAS**, this broader service area is not a "Community within a Straddling County" as defined and required by the exception conditions in the Agreement and Compact; and

**WHEREAS**, there are reasonable water supply alternatives to meet the drinking water quantity and quality needs of the City of Waukesha; and

**WHEREAS**, the impacts of the proposed return flow of water through the Root River to Lake Michigan are likely to have adverse impacts on the ecosystem and to the urban shores of the mouth of the River; and

**WHEREAS**, the Conditions for Approval were not subject to public comment while debated by the Regional Body and Compact Council despite the Compact's requirement that all relevant information be available to the public for comment; and

**WHEREAS**, the Regional Body review process did not provide adequate opportunity for public comment as only one public meeting was held in the City of Waukesha, and that hundreds of public comments against the Application did not appear to be considered during the Regional Body or Compact Council process.



**THEREFORE, BE IT RESOLVED**, that the Town of Cobourg, Ontario affirms its commitment to the protection of the Great Lakes water resources by calling on the Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin, and their representatives on the Compact Council to reconsider their Final Decision to approve the Waukesha Application; and

**BE IT FURTHER RESOLVED**, that the Town of Cobourg, Ontario supports challenges by the Great Lakes and St. Lawrence Cities Initiative to the Compact Council's approval of the Waukesha Application under procedures adopted by the Compact Council, which may include requesting a hearing and initiating judicial review of the Final Decision; and

**BE IT FINALLY RESOLVED**, that in support of the resolution of the City of Waukesha, WI, a county straddling the basin division line; the Town of Cobourg Council urge the Governors and Premiers of the Regional Body and Compact Council, consistent with good public policy, to reverse its approval of the Waukesha diversion application and ensure that the provisions of the Compact are strictly applied in this and any future application in order to protect the finite water resources of the Great Lakes and St. Lawrence River basin;

**AND FURTHER THAT** the resolution be circulated to Prime Minister Trudeau, the Premier Wynn, MPP Kathryn McGarry, Minister of Natural Resources and Forestry, the Great Lakes and St. Lawrence Initiative and to the International Joint Commission for the Great Lakes.

Signed this 19th day of August, 2016

Mayor Gil Brocanier  
Town of Cobourg



# EXHIBIT 2G

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## TOWN OF COLLINGWOOD

---



**Sandra Cooper**  
**Mayor**

September 7, 2016

Great Lakes and St. Lawrence Cities Initiative  
20 North Wacker Drive, Suite 2700  
Chicago, Illinois  
60606

97 Hurontario Street  
Box 157  
Collingwood, ON  
L9Y 3Z5  
Phone: 705 445 1030 ext 3226  
Fax: 705 445 2448

**Subject: Waukesha Water Diversion**

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During the meeting of Council held August 29, 2016, Council of the Town of Collingwood passed the following resolution with respect to the Great Lakes and St. Lawrence Cities Initiative media release to challenge the decision of the Great Lakes-St. Lawrence River Basin Water Resources Council to allow Waukesha to divert water from Lake Michigan:

**WHEREAS** the Great Lakes and St. Lawrence River Basin represents approximately 20% of the world's surface freshwater resource and supports the third largest economy in the world;

**AND WHEREAS** on December 13, 2005, the Great Lakes Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin, and the Premiers of Ontario and Quebec signed the Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement (the "Agreement"), and the Governors endorsed the companion Great Lakes - St. Lawrence River Basin Water Resources Compact (the "Compact"), which was later approved by the United States Congress and signed by the President, banning new water diversions from the Basin except in communities located in counties straddling the water division line between the Great Lakes-St. Lawrence Basin and other basins;

**AND WHEREAS** the City of Waukesha, WI, is located in Waukesha County, a county straddling the basin division line;

**AND WHEREAS** the City of Waukesha applied to the Wisconsin Department of Natural Resources under the exception for a "Community within a Straddling County" to use Lake Michigan as its source of drinking water (the "Waukesha Application");

**AND WHEREAS** the Compact requires proposals for diversions to satisfy seven specific conditions;

**AND WHEREAS** the Regional Body, after having reached an agreement on a Declaration of Finding and a set of conditions for the application, forwarded its recommendation to the Compact Council, and that all eight Great Lakes states voted in favor of the Waukesha Application;

**AND WHEREAS** on June 21, 2016, the Compact Council issued its Final Decision approving the Waukesha Application with Conditions;

**AND WHEREAS** the Waukesha Application does not meet the terms of the Agreement nor the Compact, and the precedent-setting nature of the Final Decision to approve the Application is of great concern to the Mayors of the Great Lakes and St. Lawrence Cities Initiative;

**AND WHEREAS** the approved service area still contains parts of communities which are not part of the City of Waukesha and which have not demonstrated a need for the water, amounting to a clear violation of the Compact;

**AND WHEREAS** this broader service area is not a "Community within a Straddling County" as defined and required by the exception conditions in the Agreement and Compact;

**AND WHEREAS** there are reasonable water supply alternatives to meet the drinking water quantity and quality needs of the City of Waukesha;

**AND WHEREAS** the impacts of the proposed return flow of water through the Root River to Lake Michigan are likely to have adverse impacts on the ecosystem and to the urban shores of the mouth of the River;

**AND WHEREAS** the Conditions for Approval were not subject to public comment while debated by the Regional Body and Compact Council despite the Compact's requirement that all relevant information be available to the public for comment;

**AND WHEREAS** the Regional Body review process did not provide adequate opportunity for public comment as only one public meeting was held in the City of Waukesha, and that hundreds of public comments against the Application did not appear to be considered during the Regional Body or Compact Council process;

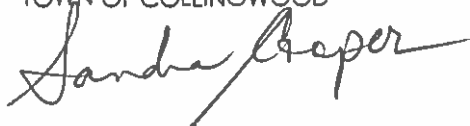
**THEREFORE BE IT RESOLVED THAT** the Town of Collingwood affirms its commitment to the protection of our water resources by calling on the Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin, and their representatives on the Compact Council to reconsider their Final Decision to approve the Waukesha Application;

**AND THAT** the Town of Collingwood supports challenges by the Great Lakes and St. Lawrence Cities Initiative to the Compact Council's approval of the Waukesha Application under procedures adopted by the Compact Council, which may include requesting a hearing and initiating judicial review of the Final Decision;

**AND FURTHER THAT** the Town of Collingwood urges the Governors and Premiers of the Regional Body and Compact Council, consistent with good public policy, to reverse its approval of the Waukesha diversion application and ensure that the provisions of the Compact are strictly applied in this and any future application in order to protect the finite water resources of the Great Lakes and St. Lawrence River basin.

If you require anything further, please do not hesitate to contact the undersigned.  
Respectfully,

CORPORATION OF THE  
TOWN OF COLLINGWOOD

A handwritten signature in black ink, appearing to read "Sandra Cooper", written over the printed name.

Sandra Cooper  
Mayor

SC:sf

Encl:

**TOWN OF COLLINGWOOD**

**August 29, 2016**

**NO. 278-16**

**MOVED BY**

*Sandra Cooper* Mayor

**SECONDED BY**

*Sharon Doherty*

**WHEREAS** the Great Lakes and St. Lawrence River Basin represents approximately 20% of the world's surface freshwater resource and supports the third largest economy in the world;

**AND WHEREAS** on December 13, 2005, the Great Lakes Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin, and the Premiers of Ontario and Quebec signed the Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement (the "Agreement"), and the Governors endorsed the companion Great Lakes - St. Lawrence River Basin Water Resources Compact (the "Compact"), which was later approved by the United States Congress and signed by the President, banning new water diversions from the Basin except in communities located in counties straddling the water division line between the Great Lakes-St. Lawrence Basin and other basins;

**AND WHEREAS** the City of Waukesha, WI, is located in Waukesha County, a county straddling the basin division line;

**AND WHEREAS** the City of Waukesha applied to the Wisconsin Department of Natural Resources under the exception for a "Community within a Straddling County" to use Lake Michigan as its source of drinking water (the "Waukesha Application");

**AND WHEREAS** the Compact requires proposals for diversions to satisfy seven specific conditions;

**AND WHEREAS** the Regional Body, after having reached an agreement on a Declaration of Finding and a set of conditions for the application, forwarded its recommendation to the Compact Council, and that all eight Great Lakes states voted in favor of the Waukesha Application;

**AND WHEREAS** on June 21, 2016, the Compact Council issued its Final Decision approving the Waukesha Application with Conditions;

**AND WHEREAS** the Waukesha Application does not meet the terms of the Agreement nor the Compact, and the precedent-setting nature of the Final Decision to approve the Application is of great concern to the Mayors of the Great Lakes and St. Lawrence Cities Initiative;

**AND WHEREAS** the approved service area still contains parts of communities which are not part of the City of Waukesha and which have not demonstrated a need for the water, amounting to a clear violation of the Compact;

**AND WHEREAS** this broader service area is not a "Community within a Straddling County" as defined and required by the exception conditions in the Agreement and Compact;

**AND WHEREAS** there are reasonable water supply alternatives to meet the drinking water quantity and quality needs of the City of Waukesha;

**AND WHEREAS** the impacts of the proposed return flow of water through the Root River to Lake Michigan are likely to have adverse impacts on the ecosystem and to the urban shores of the mouth of the River;

**AND WHEREAS** the Conditions for Approval were not subject to public comment while debated by the Regional Body and Compact Council despite the Compact's requirement that all relevant information be available to the public for comment;

**AND WHEREAS** the Regional Body review process did not provide adequate opportunity for public comment as only one public meeting was held in the City of Waukesha, and that hundreds of public comments against the Application did not appear to be considered during the Regional Body or Compact Council process;

**THEREFORE BE IT RESOLVED THAT** the Town of Collingwood affirms its commitment to the protection of our water resources by calling on the Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin, and their representatives on the Compact Council to reconsider their Final Decision to approve the Waukesha Application;

**AND THAT** the Town of Collingwood supports challenges by the Great Lakes and St. Lawrence Cities Initiative to the Compact Council's approval of the Waukesha Application under procedures adopted by the Compact Council, which may include requesting a hearing and initiating judicial review of the Final Decision;

**AND FURTHER THAT** the Town of Collingwood urges the Governors and Premiers of the Regional Body and Compact Council, consistent with good public policy, to reverse its approval of the Waukesha diversion application and ensure that the provisions of the Compact are strictly applied in this and any future application in order to protect the finite water resources of the Great Lakes and St. Lawrence River basin.

☒ **CARRIED**  
☐ **DEFEATED**  
☐ **TABLED**

Moved by: \_\_\_\_\_  
Seconded by: \_\_\_\_\_  
Deferred Until: \_\_\_\_\_

  
\_\_\_\_\_  
**MAYOR**

  
\_\_\_\_\_  
**CLERK**

☐ **RECORDED VOTE**

| <u>COUNCIL</u> | <u>Yea</u> | <u>Nay</u> |
|----------------|------------|------------|
| Cooper         |            |            |
| Saunderson     |            |            |
| Fryer          |            |            |
| Edwards        |            |            |
| Ecclestone     |            |            |
| Jeffery        |            |            |
| Doherty        |            |            |
| Madigan        |            |            |
| Lloyd          |            |            |
| <b>TOTAL</b>   |            |            |

# EXHIBIT 2H



**Corporation of the County of Essex**

360 Fairview Avenue West, Suite 314, Essex, ON N8M 1Y6  
Phone: 519-776-6441, ext. 1327 FAX: 519-776-4455  
TTY: 1-877-624-4832 Website: [www.countyofessex.on.ca](http://www.countyofessex.on.ca)  
Email: [tbain@lakeshore.ca](mailto:tbain@lakeshore.ca)

**Office of the Warden**

**Tom Bain**

September 9, 2016

Great Lakes and St. Lawrence Cities Initiative  
Water Resources Council  
c/o Council of Great Lakes Governors  
Attention: David A. Ullrich, Executive Director - [david.ullrich@glslcities.org](mailto:david.ullrich@glslcities.org)  
20 North Wacker Drive, Suite 2700  
Chicago, Illinois USA  
60606

Dear Mr. Ullrich:

**Re: Resolution in Support of Opposing the Approval of Waukesha Water Diversion Application**

Please be advised that at the September 7, 2016 meeting of the Council of the Corporation of the County of Essex, the following resolution was passed:

- 205-16** Moved by Mr. Paterson  
Seconded by Mr. McNamara  
**Whereas**, the Great Lakes and St. Lawrence River Basin represents approximately 20% of the world's surface freshwater resource and supports the third largest economy in the world; and  
**Whereas**, on December 13, 2005, the Great Lakes Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin, and the Premiers of Ontario and Quebec signed the Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement (the "Agreement"), and the Governors endorsed the companion Great Lakes—St. Lawrence River Basin Water Resources Compact (the "Compact"), which was later approved by the United States Congress and signed by the President, banning new water diversions from the Basin except in communities located in



counties straddling the water division line between the Great Lakes-St. Lawrence Basin and other basins; and

**Whereas**, the City of Waukesha, WI, is located in Waukesha County, a county straddling the basin division line; and

**Whereas**, the City of Waukesha applied to the Wisconsin Department of Natural Resources under the exception for a "Community within a Straddling County" to use Lake Michigan as its source of drinking water (the "Waukesha Application"); and

**Whereas**, the Compact requires proposals for diversions to satisfy seven specific conditions; and

**Whereas**, the Regional Body, after having reached an agreement on a Declaration of Finding and a set of conditions for the application, forwarded its recommendation to the Compact Council, and that all eight Great Lakes states voted in favor of the Waukesha Application; and

**Whereas**, on June 21, 2016, the Compact Council issued its Final Decision approving the Waukesha Application with Conditions; and

**Whereas**, the Waukesha Application does not meet the terms of the Agreement nor the Compact, and the precedent-setting nature of the Final Decision to approve the Application is of great concern to the Mayors of the Great Lakes and St. Lawrence Cities Initiative; and

**Whereas**, the approved service area still contains parts of communities which are not part of the City of Waukesha and which have not demonstrated a need for the water, amounting to a clear violation of the Compact; and

**Whereas**, this broader service area is not a "Community within a Straddling County" as defined and required by the exception conditions in the Agreement and Compact; and

**Whereas**, there are reasonable water supply alternatives to meet the drinking water quantity and quality needs of the City of Waukesha; and

**Whereas**, the impacts of the proposed return flow of water through the Root River to Lake Michigan are likely to have adverse impacts on the ecosystem and to the urban shores of the mouth of the River; and

**Whereas**, the Conditions for Approval were not subject to public comment while debated by the Regional Body and Compact Council despite the Compact's requirement that all relevant information be available to the public for comment; and

**Whereas**, the Regional Body review process did not provide adequate opportunity for public comment as only one public meeting was held in the City of Waukesha, and that hundreds of public comments against the Application did not appear to be considered during the Regional Body or Compact Council process.

**Therefore, be it resolved**, that the Corporation of the County of Essex affirms its commitment to the protection of our water resources by calling on the Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin, and their representatives on the Compact Council to reconsider their Final Decision to approve the Waukesha Application; and

**Be it further resolved**, that the Corporation of the County of Essex, supports challenges by the Great Lakes and St. Lawrence Cities Initiative to the Compact Council's approval of the Waukesha Application under procedures adopted by the Compact Council, which may include requesting a hearing and initiating judicial review of the Final Decision; and

**Be it finally resolved**, that the Corporation of the County of Essex urges the Governors and Premiers of the Regional Body and Compact Council, consistent with good public policy, to reverse its approval of the Waukesha diversion application and ensure that the provisions of the Compact are strictly applied in this and any future application in order to protect the finite water resources of the Great Lakes and St. Lawrence River basin.

Yours truly,

*Tom Bain*

**Originally Signed By**

Tom Bain

Warden – County of Essex

# EXHIBIT 2I



## Community Services

### Legislative Services

July 20, 2016

Sent via email: [david.ullrich@glstcities.org](mailto:david.ullrich@glstcities.org)

David Ullrich, Executive Director  
Great Lakes and St. Lawrence Cities Initiative  
20 North Wacker Drivem Suite 2700  
Chicago, Illinois 60606

**Re: Great Lakes and St. Lawrence Cities Initiative and City of Waukesha's Application**

The Municipal Council of the Town of Fort Erie at its meeting of July 18, 2016 passed the following resolution:

**That:** Council supports the resolution of the Great Lakes and St. Lawrence Cities Initiative dated June 15, 2016 reaffirming their commitment to the protection of our water resources, and further

**That:** Council expresses its disappointment with the June 21, 2016 decision of the Governors of the eight Great Lakes states to approve the application of the City of Waukesha to divert water out of the Great Lakes basin, and further

**That:** Council directs that a copy of this resolution be circulated to the Great Lakes and St. Lawrence Cities Initiative, The Honourable Kathleen Wynne, The Premier of Ontario, The Honourable Philippe Couillard, The Premier of Quebec, Association of Municipalities of Ontario and The Regional Municipality of Niagara.

The Great Lakes and St. Lawrence Cities Initiative resolution dated June 15, 2016 is attached for reference.

Trusting this information is of assistance to you.

Yours very truly,

Laura Bubanko, CMO, Dipl. M.A.  
Manager, Legislative Services/Clerk  
[lbubanko@forterie.ca](mailto:lbubanko@forterie.ca)

LB:dlk  
Attach.

cc: The Honourable Kathleen Wynne, Premier of Ontario Sent via email: [kwynne.mpp@liberal.ola.org](mailto:kwynne.mpp@liberal.ola.org)  
The Honourable Philippe Couillard, Premier of Quebec Sent via email: [cpm@mce.gouv.qc.ca](mailto:cpm@mce.gouv.qc.ca)  
Pat Vanini, Executive Director, AMO Sent via email: [pvanini@amo.on.ca](mailto:pvanini@amo.on.ca)  
R. Walton, Regional Clerk Sent via email: [ralph.walton@niagararegion.ca](mailto:ralph.walton@niagararegion.ca)

Mailing Address:

The Corporation of the Town of Fort Erie  
1 Municipal Centre Drive, Fort Erie ON L2A 2S6

Office Hours 8:30 a.m. to 5:00 p.m. Phone: (905) 871-1600 FAX: (905) 871-4022

Web-site: [www.forterie.ca](http://www.forterie.ca)

# EXHIBIT 2J



**VIA EMAIL**

Legislative & Planning Services  
Department  
Office of the Regional Clerk  
1151 Bronte Road  
Oakville ON L6M 3L1

October 13, 2016

Great Lakes and St. Lawrence Cities Initiative, David Ullrich  
The Honourable Michael Chong, MP, Wellington-Halton Hills  
Pam Damoff, MP, Oakville-North Burlington  
Karina Gould, MP, Burlington  
John Oliver, MP, Oakville  
The Honourable Lisa Raitt, MP, Halton  
Ted Arnott, MPP, Wellington-Halton Hills  
The Honourable Kevin Flynn, MPP, Oakville  
The Honourable Eleanor McMahon, MPP, Burlington  
The Honourable Indira Naidoo-Harris, MPP, Halton

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Please be advised that at its meeting held Wednesday, October 12, 2016, the Council of the Regional Municipality of Halton adopted the following resolution:

**RESOLUTION:       Waukesha, WI Water Diversion from Lake Michigan**

**WHEREAS** the Great Lakes Basin contains approximately 20 percent of the world's fresh water, 40 million people use the basin for potable water daily and a quarter of Canada's agriculture industry relies on it;

**AND WHEREAS** the Region of Halton (the "Region") is located along the border of Lake Ontario and has proven itself a strong environmental steward of the Great Lakes-St. Lawrence River Basin;

**AND WHEREAS** on December 13, 2005 the Governors of the eight Great Lakes states, Ontario and Quebec signed the Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement (the "Agreement") and the Governors endorsed the companion Great Lakes-St. Lawrence River Basin Water Resources Compact (the "Compact") which was later approved by the United States Congress and signed by the President, banning new water diversions from the Basin except in communities located in counties straddling the water division line between the Great Lakes-St. Lawrence River Basin and other basins;

**AND WHEREAS** the City of Waukesha, WI is the first community to submit an application to divert water from Lake Michigan for use as its source of drinking water (the "Application"), made pursuant to the Agreement and Compact;

**AND WHEREAS** concerns have been expressed by many organizations and government organizations within the Great Lakes-St. Lawrence River Basin, including the Great Lakes-St. Lawrence Cities Initiative, that the Waukesha Application does not meet the terms of either the Agreement or the Compact and that this may set a precedent for future diversions;

**Regional Municipality of Halton**

HEAD OFFICE: 1151 Bronte Rd, Oakville, ON L6M 3L1

905-825-6000 | Toll free: 1-866-442-5866

**AND WHEREAS** on June 21, 2016, a panel representing governors of the eight states adjoining the Great Lakes unanimously approved a proposal from Waukesha, WI to draw roughly 30 million litres a day from Lake Michigan and use it outside the Great Lakes Basin;

**AND WHEREAS** The International Joint Commission has determined that there is no “surplus” water in the Great Lakes;

**AND WHEREAS** the Great Lakes and St. Lawrence Cities Initiative (the “Cities Initiative”) passed a resolution opposing the Waukesha Application and has since commenced legal action to appeal the decision;

**AND WHEREAS** Halton Region is a member of the Great Lakes and St. Lawrence Cities Initiative representing municipalities along the Great Lakes and St. Lawrence in Canada and the United States.

**THEREFORE BE IT RESOLVED** THAT Regional Council objects to Waukesha, WI diverting over thirty million litres of water daily and opposes the diversion of any water outside of the Great Lakes Basin area and outside of the terms of the Great Lakes and St. Lawrence Water Resources Compact;

**AND THAT** the Regional Chair write to the Provincial Minister of Energy and Climate Change, the Provincial Minister of Natural Resources and Forestry, the Federal Minister of Natural Resources and the Federal Minister of Environment and Climate Change advising them of Regional Council’s position.

**AND THAT** the Regional Clerk forward a copy of Regional Council’s resolution to the Great Lakes and St. Lawrence Cities Initiative and local MPs and MPPs for their information.

As per the above resolution, please accept this correspondence for your information and consideration.

If you have any questions please contact me at extension 7110 or the e-mail address below.



Graham Milne  
Deputy Clerk and Supervisor of  
Council & Committee Services  
[graham.milne@halton.ca](mailto:graham.milne@halton.ca)



## **HALTON REGION**

### **NOTICE OF MOTION**

INTRODUCTION DATE: September 14, 2016

ITEM: Waukesha, WI Water Diversion from Lake Michigan

DATE OF MEETING  
NOTICE OF MOTION  
TO BE CONSIDERED: Council Meeting – October 12, 2016

MOVED BY: Councillor O'Meara

SECONDED BY: Councillor Elgar

WHEREAS the Great Lakes Basin contains approximately 20 percent of the world's fresh water, 40 million people use the basin for potable water daily and a quarter of Canada's agriculture industry relies on it;

AND WHEREAS the Region of Halton (the "Region") is located along the border of Lake Ontario and has proven itself a strong environmental steward of the Great Lakes-St. Lawrence River Basin;

AND WHEREAS on December 13, 2005 the Governors of the eight Great Lakes states, Ontario and Quebec signed the Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement (the "Agreement") and the Governors endorsed the companion Great Lakes-St. Lawrence River Basin Water Resources Compact (the "Compact") which was later approved by the United States Congress and signed by the President, banning new water diversions from the Basin except in communities located in counties straddling the water division line between the Great Lakes-St. Lawrence River Basin and other basins;

AND WHEREAS the City of Waukesha, WI is the first community to submit an application to divert water from Lake Michigan for use as its source of drinking water (the "Application"), made pursuant to the Agreement and Compact;



AND WHEREAS concerns have been expressed by many organizations and government organizations within the Great Lakes-St. Lawrence River Basin, including the Great Lakes-St. Lawrence Cities Initiative, that the Waukesha Application does not meet the terms of either the Agreement or the Compact and that this may set a precedent for future diversions;

AND WHEREAS on June 21, 2016, a panel representing governors of the eight states adjoining the Great Lakes unanimously approved a proposal from Waukesha, WI to draw roughly 30 million litres a day from Lake Michigan and use it outside the Great Lakes Basin;

AND WHEREAS The International Joint Commission has determined that there is no “surplus” water in the Great Lakes;

AND WHEREAS the Great Lakes and St. Lawrence Cities Initiative (the “Cities Initiative”) passed a resolution opposing the Waukesha Application and has since commenced legal action to appeal the decision;

AND WHEREAS Halton Region is a member of the Great Lakes and St. Lawrence Cities Initiative representing municipalities along the Great Lakes and St. Lawrence in Canada and the United States.

THEREFORE BE IT RESOLVED THAT Regional Council objects to Waukesha, WI diverting over thirty million litres of water daily and opposes the diversion of any water outside of the Great Lakes Basin area and outside of the terms of the Great Lakes and St. Lawrence Water Resources Compact;

AND THAT the Regional Chair write to the Provincial Minister of Energy and Climate Change, the Provincial Minister of Natural Resources and Forestry, the Federal Minister of Natural Resources and the Federal Minister of Environment and Climate Change advising them of Regional Council’s position.

AND THAT the Regional Clerk forward a copy of Regional Council’s resolution to the Great Lakes and St. Lawrence Cities Initiative and local MPs and MPPs for their information.

# EXHIBIT 2K



## The Corporation of the Township of Huron-Kinloss

P.O. Box 130  
21 Queen Street  
Ripley, Ontario  
N0G 2R0

Phone 519-395-3735  
Fax 519-395-4107  
Email [info@huronkinloss.com](mailto:info@huronkinloss.com)  
[www.huronkinloss.com](http://www.huronkinloss.com)

**SENT VIA EMAIL**

November 25<sup>th</sup>, 2016

Great Lakes and St. Lawrence Cities Initiative  
[simon.belisle@glscities.org](mailto:simon.belisle@glscities.org)

Dear Sir / Madam,

### **Copy of Resolution # 388**

Please find below a copy of the resolution adopted by the Township of Huron-Kinloss Council at its November 21<sup>st</sup>, 2016 session.

Motion No: 388

Moved by: Gamble Seconded by: Elliott

Whereas, the Great Lakes and St. Lawrence River Basin represents approximately 20% of the world's surface freshwater resource and supports the third largest economy in the world; and

Whereas, on December 13, 2005, the Great Lakes Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin, and the Premiers of Ontario and Quebec signed the Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement (the "Agreement"), and the Governors endorsed the companion Great Lakes—St. Lawrence River Basin Water Resources Compact (the "Compact"), which was later approved by the United States Congress and signed by the President, banning new water diversions from the Basin except in communities located in counties straddling the water division line between the Great Lakes-St. Lawrence Basin and other basins; and

Whereas, the City of Waukesha, WI, is located in Waukesha County, a county straddling the basin division line; and

Whereas, the City of Waukesha applied to the Wisconsin Department of Natural Resources under the exception for a "Community within a Straddling County" to use Lake Michigan as its source of drinking water (the "Waukesha Application"); and

Whereas, the Compact requires proposals for diversions to satisfy seven specific conditions; and

Whereas, the Regional Body, after having reached an agreement on a Declaration of Finding and a set of conditions for the application, forwarded its recommendation to the Compact Council, and that all eight Great Lakes states voted in favor of the Waukesha Application; and

Whereas, on June 21, 2016, the Compact Council issued its Final Decision approving the Waukesha Application with Conditions; and

Whereas, the Waukesha Application does not meet the terms of the Agreement nor the Compact, and the precedent-setting nature of the Final Decision to approve the Application is of great concern to the Mayors of the Great Lakes and St. Lawrence Cities Initiative; and

Whereas, the approved service area still contains parts of communities which are not part of the City of Waukesha and which have not demonstrated a need for the water, amounting to a clear violation of the Compact; and

Whereas, this broader service area is not a "Community within a Straddling County" as defined and required by the exception conditions in the Agreement and Compact; and

Whereas, there are reasonable water supply alternatives to meet the drinking water quantity and quality needs of the City of Waukesha; and

Whereas, the impacts of the proposed return flow of water through the Root River to Lake Michigan are likely to have adverse impacts on the ecosystem and to the urban shores of the mouth of the River; and

Whereas, the Conditions for Approval were not subject to public comment while debated by the Regional Body and Compact Council despite the Compact's requirement that all relevant information be available to the public for comment; and

Whereas, the Regional Body review process did not provide adequate opportunity for public comment as only one public meeting was held in the City of Waukesha, and that hundreds of public comments against the Application did not appear to be considered during the Regional Body or Compact Council process.

Therefore, Be It Resolved, that the Township of Huron-Kinloss affirms its commitment to the protection of our water resources by calling on the Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin, and their representatives on the Compact Council to reconsider their Final Decision to approve the Waukesha Application; and

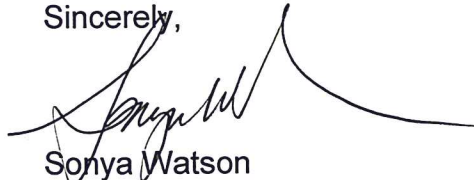
Be It Further Resolved, that the Township of Huron-Kinloss supports challenges by the Great Lakes and St. Lawrence Cities Initiative to the Compact Council's approval of the Waukesha Application under procedures adopted by the Compact Council, which may include requesting a hearing and initiating judicial review of the Final Decision; and

Be It Finally Resolved, that the Township of Huron-Kinloss urges the Premiers and Governors of the Regional Body and Compact Council, consistent with good public policy, to reverse its approval of the Waukesha diversion application and ensure that the provisions of the Compact are strictly applied in this and any future application in order to protect the finite water resources of the Great Lakes and St. Lawrence River basin.



Carried.

Sincerely,



Sonya Watson  
Clerk

# EXHIBIT 2L

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## Extrait authentique du procès-verbal d'une assemblée du conseil municipal

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|   |                       |
|---|-----------------------|
| Assemblée ordinaire du lundi 22 août 2016<br>Séance tenue le 22 août 2016 | Résolution: CM16 0853 |
|---|-----------------------|

### Deuxième déclaration d'opposition à la demande de transfert d'eau de la Ville de Waukesha

Attendu la décision CM16 0175 du conseil municipal du 22 février 2016 concernant la demande de transfert d'eau de la Ville de Waukesha;

Attendu que le 21 juin 2016, le Conseil du Pacte a rendu une décision en faveur de la demande de Waukesha et que le précédent causé est une source de préoccupation pour les maires de l'Alliance des villes des Grands Lacs et du Saint-Laurent;

Attendu que l'aire de service approuvée contient toujours des parcelles de territoire de plusieurs collectivités ne faisant pas partie de la Ville de Waukesha et qui n'ont pas démontré de besoin d'alimentation en eau potable, ce qui constitue une violation du Pacte;

Attendu que cette aire de service plus large ne constitue pas une « collectivité située dans un comté chevauchant la ligne de partage des eaux » tel que défini et requis par l'exception de l'Entente et du Pacte;

Attendu que des alternatives raisonnables d'approvisionnement en eau existent pour répondre aux besoins en eau potable de la Ville de Waukesha tant en quantité qu'en qualité;

Attendu que le retour des eaux vers le lac Michigan par la rivière Root générera des impacts potentiellement négatifs sur l'écosystème de la rivière et aux berges urbaines situées à son embouchure;

Attendu que les conditions posées par le Conseil Régional n'ont pas été soumises aux commentaires du public lorsque débattues par le Conseil Régional et le Conseil du Pacte, malgré l'exigence de soumettre toute information pertinente aux commentaires du public;

Attendu que la démarche d'examen du Conseil régional n'a pas offert au public les conditions adéquates pour s'exprimer étant donné la tenue d'une seule séance d'audience publique, ayant eu lieu à Waukesha même et compte tenu que les centaines de commentaires du public s'opposant à la demande de Waukesha semblent avoir été largement ignorés durant le processus du Conseil Régional et du Conseil du Pacte;

Il est proposé par M. Denis Coderre

appuyé par Mme Chantal Rouleau  
M. Sylvain Ouellet

Et résolu :

- 1- que la Ville de Montréal, membre de l'Alliance des villes des Grands Lacs et du Saint-Laurent, réitère son engagement à la protection des ressources en eau et demande aux gouverneurs et aux premiers ministres membres du Conseil Régional et du Conseil du Pacte de révoquer leur approbation de la demande de transfert d'eau de la Ville de Waukesha et de veiller à ce que les dispositions du Pacte soient strictement appliquées à cette demande et à toute demande ultérieure;
- 2- que la Ville de Montréal appuie les mesures de contestation entreprises par l'Alliance des villes des Grands Lacs et du St-Laurent, selon les procédures établies en vertu du Pacte, qui incluent la possibilité de déposer une pétition pour l'obtention d'une audience auprès du Conseil du Pacte et d'intenter une requête de révision judiciaire de la décision;
- 3- qu'une copie de cette résolution soit transmise à l'Alliance des villes des Grands-Lacs et du Saint-Laurent.

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Un débat s'engage.

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Adopté à l'unanimité.

15.01  
/cb

Denis CODERRE

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Maire

Yves SAINDON

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Greffier de la Ville

(certifié conforme)

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Yves SAINDON  
Greffier de la Ville

Signée électroniquement le 26 août 2016



# EXHIBIT 2M



Vaudreuil-Dorion, November 22, 2016

Mr. Glen R. Murray  
Ontario's Minister of the Environment and Climate Change  
11th Floor, Ferguson Block  
77 Wellesley Street West  
Toronto, Ontario M7A 2T5

**Subject: Resolution n° 16-10-12-09 – Support for the Great Lakes and St. Lawrence Cities Initiatives opposing the decision to authorize water diversion from the Great Lakes by the City Of Waukesha**

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Minister,

Please find attached the extract from the resolution adopted at the regular meeting of the Council of the MRC on October 12 for the above mentioned purpose.

Please accept, Minister, the assurance of our highest consideration.

The Acting Clerk,

France D'Amour

FD/nl

p. j. (1)

- c. c. Mr. David Heurtel, Minister of Sustainable Development, the Environment and the Fight Against Climate Change (French version)
- Mme Catherine McKenna, Canada's Minister of the Environment and Climate Change
- M. Peter Schiefke, MP for Vaudreuil-Soulanges (French version)
- Mme Anne Minh-Thu Quach, MP for Salaberry-Suroît (French version)
- Mme Marie-Claude Nichols, MP for Vaudreuil (French version)
- Mme Lucie Charlebois, MP for Soulanges and Minister responsible for the Montérégie region and Minister for Rehabilitation, Youth Protection, Public Health and Healthy Living (French version)
- Great Lakes and St. Lawrence Cities Initiative (both versions)**
- Montreal Metropolitan Community (French version)
- Neighbouring RCMs (French version)

Extract from Resolution **16-10-12-09** of the regular meeting of the Council of the Municipalité Régionale de Vaudreuil-Soulanges, held in the Council Chamber in Vaudreuil-Dorion on Wednesday, October 12, 2016 at 7:30 p.m. under the presidency of the Prefect Mr. Jean A. Lalonde, and attended by the following members: representative for the Town of Coteau-du-Lac, Christian Thauvette, representative for the Town of Hudson, Nicole Durand, the Mayor of the Municipality of Les Cèdres, Raymond Larouche, the Mayor of the Municipality of Les Coteaux, Denise Godin Dostie, representative for the Town of Île-Cadieux, Daniel Martel, the Mayor of the Town of Île-Perrot, Marc Roy, representative for the Town of Notre-Dame-de-l'Île-Perrot, Bernard Groulx, the Mayor of the Town of Pincourt, Yvan Cardinal, the Mayor of the Municipality of Pointe-des-Cascades, Gilles Santerre, the Mayor of the Municipality of Pointe-Fortune, Jean-Pierre Daoust, the Mayor of the Town of Rigaud, Hans Gruenwald Jr., the Mayor of the Municipality of Rivière-Beaudette, Patrick Bousez, the Mayor of the Municipality of Saint-Clet, Daniel Beaupré, the Mayor of the Municipality of Saint-Justine-de-Newton, Gisèle Fournier, the Mayor of the Municipality of Sainte-Marthe, Aline Guillotte, the Mayor of the Town of Saint-Lazare, Robert Grimaudo, the Mayor of the Municipality of Saint-Polycarpe, Jean-Yves Poirier, the Mayor of the Municipality of Saint-Télesphore, Yvon Bériault, the Mayor of the Municipality of Saint-Zotique, Yvon Chiasson, the Mayor of the Municipality of Terrasse-Vaudreuil, Michel Bourdeau, representative for the Municipality of Très-Saint-Rédempteur, Alexandre Zalac, representative for the Town of Vaudreuil-Dorion, François Séguin and Mayor of the Municipality of Vaudreuil-sur-le-Lac, Claude Pilon.

Also present were Mr. Guy-Lin Beaudoin, Executive Director and Secretary-Treasurer, Raymond Malo, Assistant Executive Director, Simon Bellemare, Assistant Executive Director, Simon Richard, Communications Consultant and Head of Community Relations and Ms. France D'Amour, Acting Clerk.

#### **SUPPORT FOR THE GREAT LAKES AND ST. LAWRENCE CITIES INITIATIVE OPPOSING THE DECISION TO AUTHORIZE WATER DIVERSION FROM THE GREAT LAKES BY THE CITY OF WAUKESHA**

WHEREAS, the Great Lakes and St. Lawrence River Basin represents 20% of the world's surface freshwater resource;

WHEREAS, on December 13, 2005, the Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin as well as the premiers of Ontario and Quebec signed the Great Lakes–St. Lawrence River Basin Sustainable Water Resources Agreement (the "Agreement") creating the Great Lakes–St. Lawrence River Water Resources Regional Body (the "Regional Body") and the Governors endorsed the companion Great Lakes–St. Lawrence River Basin Water Resources Compact (the "Compact"), which was later approved by the United States Congress and signed by the President, banning new water diversions from the Basin and that these documents prohibit the diversion of water outside the basin of the Great Lakes and the St. Lawrence River except in communities located in counties that straddle the water division line between the Great Lakes–St. Lawrence River Basin and other basins;

WHEREAS, the City of Waukesha, WI, filed an application with the Wisconsin Department of Natural Resources requesting to divert water from Lake Michigan to be used as a source of drinking water, under the exception for "counties that straddle the Basin divide";

WHEREAS, the City of Waukesha's request does not respect the terms of the Compact with relation to the need for this diversion, drinking water quality criteria for the City of Waukesha and the fact that the latter plans to provide water to neighbouring communities who have not demonstrated the need for this new source of water;

WHEREAS, the Great Lakes and St. Lawrence Cities Initiative, which the MRC de Vaudreuil-Soulanges is a member of, has given mayors a voice to ensure the protection, restoration and conservation of the Great Lakes–St. Lawrence River Basin and that they oppose the request to divert water to the City of Waukesha;

WHEREAS, on June 21, 2016, the Great Lakes Compact Council rendered a decision in favour of the application by the City of Waukesha;

WHEREAS, reasonable water supply alternatives exist to meet the drinking water needs of the City of Waukesha both in terms of quantity and quality;

WHEREAS, the precedent-setting nature of the request of the Waukesha Application is of great concern to the mayors of the Great Lakes and St. Lawrence Cities Initiative;

WHEREAS, the City of Montreal's Resolution CM16 0853 and the Great Lakes and St. Lawrence Cities Initiative's Resolution 2016-12M oppose the decision to authorize water diversion to the City of Waukesha;

WHEREAS the "Table de l'eau" of September 19, 2016 recommends supporting the Great Lakes and St. Lawrence Cities Initiative, which opposes the decision to authorize the diversion of water to the City of Waukesha;

THEREFORE, FOR THESE REASONS,

It was moved by Mr. **Yvon Bériault**, seconded by Mr. **Patrick Bousez** and resolved:

**that** the MRC de Vaudreuil-Soulanges, as a member, **supports** the Great Lakes and St. Lawrence Cities Initiative and asks the representatives of the Regional Body and the Compact Council to **reject** the City of Waukesha's current water diversion application;

**that** a copy of the present resolution **be forwarded to:**

- the Minister of Sustainable Development, the Environment and the Fight Against Climate Change, Mr. David Heurtel;
- Ontario's Minister of the Environment and Climate Change, Mr. Glen R. Murray;
- Canada's Minister of the Environment and Climate Change, Ms. Catherine McKenna;
- the MP for Vaudreuil-Soulanges, Mr. Peter Schiefke;
- the MP for Salaberry-Suroît, Ms. Anne Minh-Thu Quach;
- the MP for Vaudreuil, Ms. Marie-Claude Nichols;
- the MP for Soulanges and Minister responsible for the Montérégie region and Minister for Rehabilitation, Youth Protection, Public Health and Healthy Living, Ms. Lucie Charlebois;
- the Great Lakes and St. Lawrence Cities Initiative;
- the Montreal Metropolitan Community;
- neighbouring RCMs.

**Proposal adopted.**

Given at Vaudreuil-Dorion, October 20, 2016.

  
\_\_\_\_\_  
**MARC ROY**  
Acting Prefect  
\_\_\_\_\_  
**SIMON BELLEMARE**  
Assistant Executive Director and  
Assistant Secretary-Treasurer



Vaudreuil-Dorion, le 22 novembre 2016

Monsieur David Heurtel  
Ministre du Développement durable, de l'Environnement  
et de la Lutte contre les changements climatiques du Québec  
Édifice Marie-Guyart, 30<sup>e</sup> étage  
675, boulevard René-Lévesque Est  
Québec, (Québec) G1R 5V7

**Objet : Résolution n° 16-10-12-09 – Appui à l'Alliance des villes des Grands Lacs et du Saint-Laurent dénonçant la décision d'autoriser le pompage d'eau par la ville de Waukesha dans les Grands Lacs**

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Monsieur le Ministre,

Vous trouverez en pièce jointe l'extrait de la résolution adoptée à la séance ordinaire du conseil de la MRC le 12 octobre dernier concernant l'objet ci-dessus mentionné.

Nous vous prions d'agréer, Monsieur le Ministre, l'expression de notre plus haute considération.

La greffière par intérim,



France D'Amour

FD/nl

p. j. (1)

- c. c. M. Glen R. Murray, ministre de l'Environnement et de l'Action en matière de changement climatique de l'Ontario (version anglaise)  
Mme Catherine McKenna, ministre de l'Environnement et du Changement climatique du Canada (version anglaise)  
M. Peter Schiefke, député de Vaudreuil-Soulanges  
Mme Anne Minh-Thu Quach, députée de Salaberry-Suroît  
Mme Marie-Claude Nichols, députée de Vaudreuil  
Mme Lucie Charlebois, députée de Soulanges et ministre responsable de la région de la Montérégie et déléguée à la Réadaptation, à la Protection de la jeunesse, à la Santé publique et aux Saines habitudes de vie  
**Alliance des Villes des Grands Lacs et du Saint-Laurent (versions française et anglaise)**  
Communauté métropolitaine de Montréal  
MRC voisines

Extrait de la résolution numéro **16-10-12-09** de la séance ordinaire du conseil de la municipalité régionale de comté de Vaudreuil-Soulanges, tenue en la salle du conseil à Vaudreuil-Dorion le mercredi 12 octobre 2016 à 19 h 30, sous la présidence de son honneur le préfet, monsieur Jean A. Lalonde, à laquelle sont présents les membres suivants : le représentant de la ville de Coteau-du-Lac, Christian Thauvette, la représentante de la ville d'Hudson, Nicole Durand, le maire de la municipalité des Cèdres, Raymond Larouche, la mairesse de la municipalité des Coteaux, Denise Godin Dostie, le représentant de la ville de L'Île-Cadieux, Daniel Martel, le maire de la ville de L'Île-Perrot, Marc Roy, le représentant de la ville de Notre-Dame-de-l'Île-Perrot, Bernard Groulx, le maire de la ville de Pincourt, Yvan Cardinal, le maire de la municipalité de Pointe-des-Cascades, Gilles Santerre, le maire de la municipalité de Pointe-Fortune, Jean-Pierre Daoust, le maire de la ville de Rigaud, Hans Gruenwald Jr, le maire de la municipalité de Rivière-Beaudette, Patrick Bousez, le maire de la municipalité de Saint-Clet, Daniel Beaupré, la mairesse de la municipalité de Saint-Justine-de-Newton, Gisèle Fournier, la maire de la municipalité de Sainte-Marthe, Aline Guillotte, le maire de la ville de Saint-Lazare, Robert Grimaudo, le maire de la municipalité de Saint-Polycarpe, Jean-Yves Poirier, le maire de la municipalité de Saint-Télesphore, Yvon Bériault, le maire de la municipalité de Saint-Zotique, Yvon Chiasson, le maire de la municipalité de Terrasse-Vaudreuil, Michel Bourdeau, le représentant de la municipalité de Très-Saint-Rédempteur, Alexandre Zalac, le représentant de la ville de Vaudreuil-Dorion, François Séguin et le maire de la municipalité de Vaudreuil-sur-le-Lac, Claude Pilon.

Sont également présents, messieurs Guy-Lin Beaudoin, directeur général et secrétaire-trésorier, Raymond Malo, directeur général adjoint, Simon Bellemare, directeur général adjoint, Simon Richard, conseiller en communication et responsable des relations avec le milieu et madame France D'Amour, greffière par intérim.

#### **APPUI À L'ALLIANCE DES VILLES DES GRANDS LACS ET DU SAINT-LAURENT DÉNONÇANT LA DÉCISION D'AUTORISER LE POMPAGE D'EAU PAR LA VILLE DE WAUKESHA DANS LES GRANDS LACS**

CONSIDÉRANT QUE le bassin des Grands Lacs et du Saint-Laurent représente 20 % des ressources mondiales en eau douce de surface;

CONSIDÉRANT QUE le 13 décembre 2005, les gouverneurs des États de l'Illinois, de l'Indiana, du Michigan, du Minnesota, de New York, de l'Ohio, de la Pennsylvanie et du Wisconsin, ainsi que les premiers ministres de l'Ontario et du Québec ont signé l'Entente sur les ressources en eaux durables du bassin des Grands Lacs et du fleuve Saint-Laurent (l'Entente) créant le Conseil régional des Grands Lacs et du Saint-Laurent (Conseil régional) et que les mêmes gouverneurs ont signé le Pacte des Grands Lacs (le Pacte), qui a ensuite été approuvé par le Congrès américain et signé par le président et que ces documents qui interdisent les transferts d'eau hors du bassin des Grands Lacs et du Saint-Laurent, sauf pour les collectivités situées dans des comtés chevauchant la ligne de partage des eaux entre le bassin des Grands Lacs et du Saint-Laurent et d'autres bassins;

CONSIDÉRANT QUE la Ville de Waukesha a déposé une demande de transfert d'eau du lac Michigan afin de l'utiliser comme source d'eau potable, selon l'exception des « collectivités situées dans des comtés chevauchant la ligne de partage des eaux » auprès du Wisconsin Department of Natural Resources;

CONSIDÉRANT QUE la demande de Waukesha ne respecte pas les termes du Pacte en termes de nécessité de ce transfert d'eau, des critères de qualité de l'eau de la Ville de Waukesha et que celle-ci planifie de fournir de l'eau à des communautés voisines, qui n'ont pas démontré le besoin d'une nouvelle source d'eau;

CONSIDÉRANT QUE l'Alliance des villes des Grands Lacs et du Saint-Laurent, dont est membre la MRC de Vaudreuil-Soulanges, fait entendre la voix des maires pour assurer la protection, la restauration et la mise en valeur des Grands Lacs et du Saint-Laurent et que celle-ci s'oppose à la demande de transfert d'eau de la Ville de Waukesha;

CONSIDÉRANT QUE le 21 juin 2016, le Conseil du Pacte a rendu une décision en faveur de la demande de Waukesha;

CONSIDÉRANT QUE des alternatives raisonnables d'approvisionnement en eau existent pour répondre aux besoins en eau potable de la ville de Waukesha tant en quantité qu'en qualité;

CONSIDÉRANT QUE la jurisprudence causée par la nature de la demande de la Ville de Waukesha est une source de préoccupation pour les maires de l'Alliance des villes des Grands Lacs et du Saint-Laurent;

CONSIDÉRANT la résolution CM16 0853 de la ville de Montréal et la résolution 2016-12M de l'Alliance des villes des Grands Lacs et du Saint-Laurent qui contestent la décision d'autoriser le transfert d'eau à la ville de Waukesha;

CONSIDÉRANT QUE la Table de l'eau du 19 septembre dernier recommande d'appuyer l'Alliance des Villes des Grands Lacs et du Saint-Laurent qui conteste la décision d'autoriser le transfert d'eau à la Ville de Waukesha;

POUR CES MOTIFS,

Il est proposé par monsieur **Yvon Bériault**, appuyé par monsieur **Patrick Bousez** et résolu :


**que** la MRC de Vaudreuil-Soulanges, en tant que membre, **appuie** l'Alliance des Villes des Grands Lacs et du Saint-Laurent et demande aux représentants au sein du Conseil régional et du Conseil du Pacte **de rejeter** la demande de transfert d'eau de la Ville de Waukesha dans sa forme actuelle;

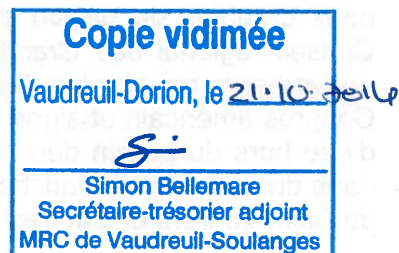
**que** copie de la présente résolution **soit acheminée** :

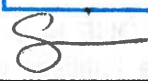
- au ministre du Développement durable, de l'Environnement et de la Lutte contre les changements climatiques du Québec, monsieur David Heurtel;
- au ministre de l'Environnement et de l'Action en matière de changement climatique de l'Ontario, monsieur Glen R. Murray;
- à la ministre de l'Environnement et du Changement climatique du Canada, madame Catherine McKenna;
- au député de Vaudreuil-Soulanges, monsieur Peter Schiefke;
- à la députée de Salaberry-Suroît, madame Anne Minh-Thu Quach;
- à la députée de Vaudreuil, madame Marie-Claude Nichols;
- à la députée de Soulanges et ministre responsable de la région de la Montérégie et déléguée à la Réadaptation, à la Protection de la jeunesse, à la Santé publique et aux Saines habitudes de vie, madame Lucie Charlebois;
- à l'Alliance des Villes des Grands Lacs et du Saint-Laurent;
- à la Communauté métropolitaine de Montréal;
- aux MRC voisines.

**Proposition adoptée.**

Donné à Vaudreuil-Dorion, le 20 octobre 2016.

  
**MARC ROY**  
Préfet suppléant



  
**SIMON BELLEMARE**  
Directeur général adjoint et secrétaire-trésorier adjoint

# EXHIBIT 2N



I hereby certify that the following Resolution was adopted at a Meeting of the City Council held on September 6, 2016:

RESOLUTION No. 2016-100

**RELATIVE TO  
SUPPORTING GREAT LAKES AND ST. LAWRENCE CITIES INITIATIVE'S  
OPPOSITION FOR THE APPROVAL OF THE WAUKESHA WATER DIVERSION APPLICATION**

BY:

COUNCIL CHAIRMAN ANDREW TOUMA  
COUNCIL MEMBER KRISTEN GRANDINETTI  
COUNCILMAN EZRA SCOTT, JR.  
COUNCIL MEMBER KENNY TOMPKINS  
COUNCIL MEMBER CHARLES WALKER

**WHEREAS**, the Great Lakes and St. Lawrence River Basin represents approximately 20% of the world's surface freshwater resource and supports the third largest economy in the world; and

**WHEREAS**, on December 13, 2005, the Great Lakes Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin, and the Premiers of Ontario and Quebec signed the Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement (the "Agreement"), and the Governors endorsed the companion Great Lakes—St. Lawrence River Basin Water Resources Compact (the "Compact"), which was later approved by the United States Congress and signed by the President, banning new water diversions from the Basin except in communities located in counties straddling the water division line between the Great Lakes-St. Lawrence Basin and other basins; and

**WHEREAS**, the City of Waukesha, WI, is located in Waukesha County, a county straddling the basin division line; and

**WHEREAS**, the City of Waukesha applied to the Wisconsin Department of Natural Resources under the exception for a "Community within a Straddling County" to use Lake Michigan as its source of drinking water (the "Waukesha Application"); and

**WHEREAS**, the Compact requires proposals for diversions to satisfy seven specific conditions; and

**WHEREAS**, the Regional Body, after having reached an agreement on a Declaration of Finding and a set of conditions for the application, forwarded its recommendation to the Compact Council, and that all eight Great Lakes states voted in favor of the Waukesha Application; and

**WHEREAS**, on June 21, 2016, the Compact Council issued its Final Decision approving the Waukesha Application with Conditions; and

**WHEREAS**, the Waukesha Application does not meet the terms of the Agreement nor the Compact, and the precedent-setting nature of the Final Decision to approve the Application is of great concern to the Mayors of the Great Lakes and St. Lawrence Cities Initiative; and

**WHEREAS**, the approved service area still contains parts of communities which are not part of the City of Waukesha and which have not demonstrated a need for the water, amounting to a clear violation of the Compact; and

**WHEREAS**, this broader service area is not a "Community within a Straddling County" as defined and required by the exception conditions in the Agreement and Compact; and

**WHEREAS**, there are reasonable water supply alternatives to meet the drinking water quantity and quality needs

of the City of Waukesha; and

**WHEREAS**, the impacts of the proposed return flow of water through the Root River to Lake Michigan are likely to have adverse impacts on the ecosystem and to the urban shores of the mouth of the River; and

**WHEREAS**, the Conditions for Approval were not subject to public comment while debated by the Regional Body and Compact Council despite the Compact's requirement that all relevant information be available to the public for comment; and

**WHEREAS**, the Regional Body review process did not provide adequate opportunity for public comment as only one public meeting was held in the City of Waukesha, and that hundreds of public comments against the Application did not appear to be considered during the Regional Body or Compact Council process.

**NOW, THEREFORE, BE IT RESOLVED**, that the City of Niagara Falls affirms its commitment to the protection of our water resources by calling on the Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin, and their representatives on the Compact Council to reconsider their Final Decision to approve the Waukesha Application; and

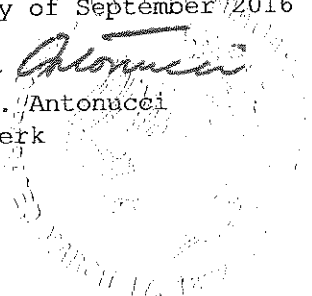
**BE IT FURTHER RESOLVED**, that the City of Niagara Falls supports any and all challenges on behalf of the Great Lakes and St. Lawrence Cities Initiative to the Compact Council's approval of the Waukesha Application, especially given the precedent set by the Application's approval; and

**BE IT FURTHER RESOLVED**, that the City of Niagara Falls urges the Governors and Premiers of the Regional Body and Compact Council, consistent with good public policy, to reverse its approval of the Waukesha diversion application and ensure that the provisions of the Compact are strictly applied in this and any future application in order to protect the finite water resources of the Great Lakes and St. Lawrence River basin.

Witness my Hand and Seal this  
28th day of September 2016

*Carol A. Antonucci*

Carol A. Antonucci  
City Clerk



# EXHIBIT 20

**Administration**

Office of the Regional Clerk

1815 Sir Isaac Brock Way, PO Box 1042, Thorold, ON L2V 4T7

Telephone: 905-685-4225 Toll-free: 1-800-263-7215 Fax: 905-687-4977

[www.niagararegion.ca](http://www.niagararegion.ca)

October 17, 2016

CL 15-2016, October 6 2016  
City of Waukesha's Great Lakes  
Water Diversion Application

Great Lakes and St. Lawrence Cities Initiative  
20 North Wacker Dr., #2700,  
Chicago, Illinois 60606

Attention: Denis Coderre, Cities Initiative Chair and Director

Dear Mr. Coderre:

Regional Council, at its meeting of October 6, 2016, passed the following resolution:

That Council **SUPPORTS** the resolution of the Great Lakes and St. Lawrence Cities Initiative dated June 15, 2016 reaffirming their commitment to the protection of our water resources;

That Council **EXPRESSES** its disappointment with the June 21, 2016 decision of the Governors of the eight Great Lakes states to approve the application of the City of Waukesha to divert water out of the Great Lakes basin; and

That Council **DIRECTS** a copy of this resolution be circulated to the Great Lakes and St. Lawrence Cities Initiative, the Honourable Kathleen Wynne, Premier of Ontario, the Honourable Philippe Couillard, Premier of Quebec, and Association of Municipalities of Ontario.

Yours truly,



Ralph Walton  
Regional Clerk  
:pp

cc:

The Honourable Kathleen Wynne, Premier of Ontario  
The Honourable Philippe Couillard, Premier of Québec  
Association of Municipalities on Ontario  
M. Lewis, Acting Chief Administrative Officer

# EXHIBIT 2P

**From:** [Township of Nipigon](#)  
**To:** [Andrea Paine](#)  
**Subject:** Waukesha Water Diversion  
**Date:** Thursday, December 08, 2016 10:05:35 AM  
**Attachments:** [image001.jpg](#)

---

Please be advised that Council for The Corporation of the Township of Nipigon passed the following resolution at its meeting of December 6, 2016:

**OPPOSING THE APPROVAL OF THE WAUKESHA WATER DIVERSION APPLICATION**

**WHEREAS**, the Great Lakes and St. Lawrence River Basin represents approximately 20% of the world's surface freshwater resource and supports the third largest economy in the world; and

**WHEREAS**, on December 13, 2005, the Great Lakes Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin, and the Premiers of Ontario and Quebec signed the Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement (the "Agreement"), and the Governors endorsed the companion Great Lakes—St. Lawrence River Basin Water Resources Compact (the "Compact"), which was later approved by the United States Congress and signed by the President, banning new water diversions from the Basin except in communities located in counties straddling the water division line between the Great Lakes-St. Lawrence Basin and other basins; and

**WHEREAS**, the City of Waukesha, WI, is located in Waukesha County, a county straddling the basin division line; and

**WHEREAS**, the City of Waukesha applied to the Wisconsin Department of Natural Resources under the exception for a "Community within a Straddling County" to use Lake Michigan as its source of drinking water (the "Waukesha Application"); and

**WHEREAS**, the Compact requires proposals for diversions to satisfy seven specific conditions; and

**WHEREAS**, the Regional Body, after having reached an agreement on a Declaration of Finding and a set of conditions for the application, forwarded its recommendation to the Compact Council, and that all eight Great Lakes states voted in favor of the Waukesha Application; and

**WHEREAS**, on June 21, 2016, the Compact Council issued its Final Decision approving the Waukesha Application with Conditions; and

**WHEREAS**, the Waukesha Application does not meet the terms of the Agreement nor the Compact, and the precedent-setting nature of the Final Decision to approve the Application is of great concern to the Mayors of the Great Lakes and St. Lawrence Cities Initiative; and

**WHEREAS**, the approved service area still contains parts of communities which are not part of the City of Waukesha and which have not demonstrated a need for the water, amounting to a clear violation of the Compact; and

**WHEREAS**, this broader service area is not a "Community within a Straddling County" as defined and required by the exception conditions in the Agreement and Compact; and

**WHEREAS**, there are reasonable water supply alternatives to meet the drinking water quantity and quality needs of the City of Waukesha; and

**WHEREAS**, the impacts of the proposed return flow of water through the Root River to Lake

Michigan are likely to have adverse impacts on the ecosystem and to the urban shores of the mouth of the River; and

**WHEREAS**, the Conditions for Approval were not subject to public comment while debated by the Regional Body and Compact Council despite the Compact's requirement that all relevant information be available to the public for comment; and

**WHEREAS**, the Regional Body review process did not provide adequate opportunity for public comment as only one public meeting was held in the City of Waukesha, and that hundreds of public comments against the Application did not appear to be considered during the Regional Body or Compact Council process.

**THEREFORE, BE IT RESOLVED**, that the Township of Nipigon affirms its commitment to the protection of our water resources by calling on the Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin, and their representatives on the Compact Council to reconsider their Final Decision to approve the Waukesha Application; and

**BE IT FURTHER RESOLVED**, that the Township of Nipigon supports challenges by the Great Lakes and St. Lawrence Cities Initiative to the Compact Council's approval of the Waukesha Application under procedures adopted by the Compact Council, which may include requesting a hearing and initiating judicial review of the Final Decision; and

**BE IT FINALLY RESOLVED**, that the Township of Nipigon urges the Governors and Premiers of the Regional Body and Compact Council, consistent with good public policy, to reverse its approval of the Waukesha diversion application and ensure that the provisions of the Compact are strictly applied in this and any future application in order to protect the finite water resources of the Great Lakes and St. Lawrence River basin.

Township of Nipigon

52 Front Street

Nipigon ON P0T 2J0

(P) 807-887-3135 (F) 807-887-3564

A NATURAL EDGE2



<http://www.nipigon.net>

<mailto:info@nipigon.net>

# EXHIBIT 2Q





## CITY OF PORT COLBORNE

Municipal Offices  
66 Charlotte Street  
Port Colborne, Ontario  
L3K 3C8  
[www.portcolborne.ca](http://www.portcolborne.ca)

COMMUNITY & CORPORATE SERVICES DEPARTMENT, CLERK'S DIVISION

September 28, 2016

Denis Coderre, Chair  
Great Lakes and St. Lawrence Cities Initiative  
Mayor of Montreal  
275 rue Notre-Dame Est  
Montreal, QC H2Y 1C6

Dear Denis Coderre:

**Re: Resolution of Support – Opposition to Approval of Waukesha Water Diversion Application**

Please be advised that, at its meeting of September 26, 2016, the Council of The Corporation of the City of Port Colborne resolved as follows:

That the resolution received from the City of St. Catharines in support of The Great Lakes and St. Lawrence Cities Initiative resolution in opposition to the approval of the Waukesha Water Diversion Application, be supported.

A copy of the above noted resolution is enclosed.

Sincerely,

  
Ashley Grigg  
City Clerk

Encl.

ec: David Ullrich, Executive Director, Great Lakes and St. Lawrence Cities Initiative  
Local Area Members of Parliament  
Local Area Members of Provincial Parliament  
Niagara Region  
Local Area Municipalities



**City of St. Catharines**

**RESOLUTION**

**OPPOSING THE APPROVAL OF THE WAUKESHA WATER DIVERSION  
APPLICATION**

**WHEREAS**, the Great Lakes and St. Lawrence River Basin represents approximately 20% of the world's surface freshwater resource and supports the third largest economy in the world; and

**WHEREAS**, on December 13, 2005, the Great Lakes Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin, and the Premiers of Ontario and Quebec signed the Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement (the "Agreement"), and the Governors endorsed the companion Great Lakes—St. Lawrence River Basin Water Resources Compact (the "Compact"), which was later approved by the United States Congress and signed by the President, banning new water diversions from the Basin except in communities located in counties straddling the water division line between the Great Lakes-St. Lawrence Basin and other basins; and

**WHEREAS**, the City of Waukesha, WI, is located in Waukesha County, a county straddling the basin division line; and

**WHEREAS**, the City of Waukesha applied to the Wisconsin Department of Natural Resources under the exception for a "Community within a Straddling County" to use Lake Michigan as its source of drinking water (the "Waukesha Application"); and

**WHEREAS**, the Compact requires proposals for diversions to satisfy seven specific conditions; and

**WHEREAS**, the Regional Body, after having reached an agreement on a Declaration of Finding and a set of conditions for the application, forwarded its recommendation to the Compact Council, and that all eight Great Lakes states voted in favor of the Waukesha Application; and



**WHEREAS**, on June 21, 2016, the Compact Council issued its Final Decision approving the Waukesha Application with Conditions; and

**WHEREAS**, the Waukesha Application does not meet the terms of the Agreement nor the Compact, and the precedent-setting nature of the Final Decision to approve the Application is of great concern to the Mayors of the Great Lakes and St. Lawrence Cities Initiative; and

**WHEREAS**, the approved service area still contains parts of communities which are not part of the City of Waukesha and which have not demonstrated a need for the water, amounting to a clear violation of the Compact; and

**WHEREAS**, this broader service area is not a "Community within a Straddling County" as defined and required by the exception conditions in the Agreement and Compact; and

**WHEREAS**, there are reasonable water supply alternatives to meet the drinking water quantity and quality needs of the City of Waukesha; and

**WHEREAS**, the impacts of the proposed return flow of water through the Root River to Lake Michigan are likely to have adverse impacts on the ecosystem and to the urban shores of the mouth of the River; and

**WHEREAS**, the Conditions for Approval were not subject to public comment while debated by the Regional Body and Compact Council despite the Compact's requirement that all relevant information be available to the public for comment; and

**WHEREAS**, the Regional Body review process did not provide adequate opportunity for public comment as only one public meeting was held in the City of Waukesha, and that hundreds of public comments against the Application did not appear to be considered during the Regional Body or Compact Council process.

**THEREFORE, BE IT RESOLVED**, that the City of St. Catharines affirms its commitment to the protection of our water resources by calling on the Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin, and their representatives on the Compact Council to reconsider their Final Decision to approve the Waukesha Application; and



**BE IT FURTHER RESOLVED**, that the City of St. Catharines supports challenges by the Great Lakes and St. Lawrence Cities Initiative to the Compact Council's approval of the Waukesha Application under procedures adopted by the Compact Council, which may include requesting a hearing and initiating judicial review of the Final Decision; and

**BE IT FURTHER RESOLVED**, that the City of St. Catharines urges the Governors and Premiers of the Regional Body and Compact Council, consistent with good public policy, to reverse its approval of the Waukesha diversion application and ensure that the provisions of the Compact are strictly applied in this and any future application in order to protect the finite water resources of the Great Lakes and St. Lawrence River basin.

**FURTHER BE IT RESOLVED**, that this resolution be forwarded to all area municipalities, the Niagara Region, area MP's, and MPP's, for their support.

Signed this 22 day of August, 2016

\_\_\_\_\_  
Mayor  
City of St. Catharines

# EXHIBIT 2R



**RESOLUTION NO. 067-16R**

**A RESOLUTION OPPOSING THE APPROVAL OF THE WAUKESHA WATER DIVERSION APPLICATION; AND DECLARING THAT THIS RESOLUTION SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, the Great Lakes and St. Lawrence River Basin represents approximately 20% of the world's surface freshwater resource and supports the third largest economy in the world; and

**WHEREAS**, on December 13, 2005, the Great Lakes Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin, and the Premiers of Ontario and Quebec signed the Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement (the "Agreement"), and the Governors endorsed the companion Great Lakes—St. Lawrence River Basin Water Resources Compact (the "Compact"), which was later approved by the United States Congress and signed by the President, banning new water diversions from the Basin except in communities located in counties straddling the water division line between the Great Lakes-St. Lawrence Basin and other basins; and

**WHEREAS**, the City of Waukesha, WI, is located in Waukesha County, a county straddling the basin division line; and

**WHEREAS**, the City of Waukesha applied to the Wisconsin Department of Natural Resources under the exception for a "Community within a Straddling County" to use Lake Michigan as its source of drinking water (the "Waukesha Application"); and

**WHEREAS**, the Compact requires proposals for diversions to satisfy seven specific conditions; and

**WHEREAS**, the Regional Body, after having reached an agreement on a Declaration of Finding and a set of conditions for the application, forwarded its recommendation to the Compact Council, and that all eight Great Lakes states voted in favor of the Waukesha Application; and

**WHEREAS**, on June 21, 2016, the Compact Council issued its Final Decision approving the Waukesha Application with Conditions; and

**WHEREAS**, the Waukesha Application does not meet the terms of the Agreement nor the Compact, and the precedent-setting nature of the Final Decision to approve the Application is of great concern to the Mayors of the Great Lakes and St. Lawrence Cities Initiative; and

**WHEREAS**, the approved service area still contains parts of communities which are not part of the City of Waukesha and which have not demonstrated a need for the water, amounting to a clear violation of the Compact; and

**WHEREAS**, this broader service area is not a "Community within a Straddling County" as defined and required by the exception conditions in the Agreement and Compact; and

**WHEREAS**, there are reasonable water supply alternatives to meet the drinking water quantity and quality needs of the City of Waukesha; and

**WHEREAS**, the impacts of the proposed return flow of water through the Root River to Lake Michigan are likely to have adverse impacts on the ecosystem and to the urban shores of the mouth of the River; and



**PAGE 2 - RESOLUTION NO. 067-16R**

**WHEREAS**, the Conditions for Approval were not subject to public comment while debated by the Regional Body and Compact Council despite the Compact's requirement that all relevant information be available to the public for comment; and

**WHEREAS**, the Regional Body review process did not provide adequate opportunity for public comment as only one public meeting was held in the City of Waukesha, and that hundreds of public comments against the Application did not appear to be considered during the Regional Body or Compact Council process.

**WHEREAS**, this Resolution should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to provide a Resolution to the Great Lakes and St. Lawrence Cities Initiative in a timely manner indicating the City's opposition to the approval of the Waukesha Water Diversion application; and

**WHEREAS**, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio, finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Resolution** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. This City Commission affirms its commitment to the protection of our water resources by calling on the Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin, and their representatives on the Compact Council to reconsider their Final Decision to approve the Waukesha Application.

Section 2. This City Commission supports challenges by the Great Lakes and St. Lawrence Cities Initiative to the Compact Council's approval of the Waukesha Application under procedures adopted by the Compact Council, which may include requesting a hearing and initiating judicial review of the Final Decision.

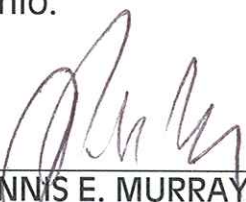
Section 3. This City Commission urges the Governors and Premiers of the Regional Body and Compact Council, consistent with good public policy, to reverse its approval of the Waukesha diversion application and ensure that the provisions of the Compact are strictly applied in this and

any future application in order to protect the finite water resources of the Great Lakes and St. Lawrence River basin.

Section 4. If any section, phrase, sentence, or portion of this Resolution is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 5. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Resolution were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 6. That for the reasons set forth in the preamble hereto, this Resolution is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

  
\_\_\_\_\_  
DENNIS E. MURRAY, JR.  
PRESIDENT OF THE CITY COMMISSION

ATTEST:   
\_\_\_\_\_  
PAIGE L. DOSTER  
ACTING CLERK OF THE CITY COMMISSION

Passed: November 28, 2016



# EXHIBIT 2S

Christian C. Provenzano B.A., LL.B.  
Mayor



Corporation of the City of  
Sault Ste. Marie

September 20, 2016

SENT VIA E-MAIL

International Joint Commission  
Great Lakes Regional Office  
P.O. Box 32869  
Detroit, MI  
48232

**RE:** Waukesha, WI, Water Diversion Application

To Whom It May Concern,

On behalf of Sault Ste. Marie City Council, I am writing you to formally protest the unprecedented decision by the Great Lakes Compact Council to allow the City of Waukesha, Wisconsin to divert water from Lake Michigan. A resolution passed by our Council on September 12, 2016 reiterating the same is attached for your reference.

Waukesha falls outside the Great Lakes Basin. It was able to have its application heard by the Great Lakes Compact Council through what amounts to a technicality. The need for Waukesha to have clean drinking water is not in dispute. However, as the Great Lakes and St. Lawrence Cities Initiative has long argued, the community has other, simpler options available to them besides diverting water from the Great Lakes. The necessary precondition of having "no reasonable water supply alternative available" has not been satisfied.

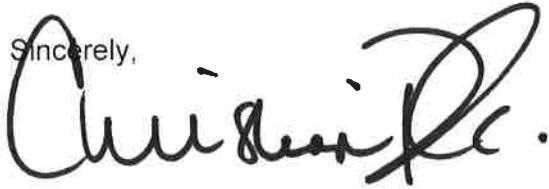
What is most troubling about the prospect of this diversion application moving ahead is the precedent it will set for future decisions. If this decision is allowed to stand, it can be reasonably foreseen that the future will bring more diversion applications from communities that lie farther afield of the Great Lakes basin—ones that in some cases will not be reasonably expected to return water to the Great Lakes watershed.

In hydrological terms, Lake Michigan and Lake Huron are considered to be part of the same body of water. As such, Waukesha's proposed diversion may need to be scrutinized within the framework of the Boundary Waters Treaty of 1909, to ensure that appropriate safeguards are in place to protect Lake Michigan-Huron and that both Canadian and American interests are protected.

/2

In closing, I ask that the International Joint Commission to review and if possible delay the implementation of Waukesha's water diversion plan. I also encourage you, in your capacity as a quasi-judicial body and an arbiter of decisions regarding trans-national water resources, to urge the Great Lakes Compact Council to suspend their decision to grant Waukesha's diversion request pending further review.

Sincerely,

A handwritten signature in black ink, appearing to read "Christian Provenzano", followed by a period.

Christian Provenzano

c.c. City Clerk  
City Councillors  
Council of Great Lakes Governors

Attachments: (1)



## CITY COUNCIL RESOLUTION

**Agenda Number:** 8.3  
**Title:** Diversion of Water from the Great Lakes  
**Date:** Monday, September 12, 2016

---

**Moved by:** Councillor S. Butland  
**Seconded by:** Councillor S. Hollingsworth

Resolved that Council authorize Mayor Provenzano to write a letter of protest to the International Joint Commission opposing the decision by eight state governors to allow the diversion of up to 8.2 million gallons of water per day from Lake Michigan by the City of Waukesha, Wisconsin.

**Carried**

**Postponed**

**Defeated**

**Officially Read and Not  
Dealt With**

  
Christian Provenzano

# EXHIBIT 2T



**VILLE DE  
SOREL-TRACY**

71, rue Charlotte, C.P. 368  
Sorel-Tracy (Québec) J3P 7K1



**Bureau du greffier**

Téléphone: 450 780-5600  
Télécopieur: 450 780-5625

PAR COURRIEL

Le 12 décembre 2016

Monsieur David A. Ullrich, directeur exécutif  
Alliance des villes des Grands Lacs  
et du Saint-Laurent  
[david.ullrich@glslcities.org](mailto:david.ullrich@glslcities.org)

**Objet : Opposition à la demande de transfert d'eau de la Ville de Waukesha**

Monsieur,

Par la présente, nous vous informons que les membres du conseil, lors de la séance ordinaire du 5 décembre 2016, ont adopté une résolution afin de s'opposer à la demande de transfert d'eau de la Ville de Waukesha.

Vous trouverez ci-incluse une copie de la résolution n° 2016-12-921 adoptée en ce sens.

Veuillez agréer, Monsieur, nos salutations distinguées.

Le greffier,

René Chevalier

RC/ena

p.j. Résolution



**VILLE DE  
SOREL-TRACY**

71, rue Charlotte, C.P. 368  
Sorel-Tracy (Québec) J3P 7K1



**Bureau du greffier**

Téléphone: 450 780-5600  
Télécopieur: 450 780-5625

PROVINCE DE QUÉBEC  
VILLE DE SOREL-TRACY

---

Extrait du procès-verbal de la séance ordinaire du conseil municipal de la Ville de Sorel-Tracy tenue le 5 décembre 2016

---

**Résolution n° 2016-12-921      Opposition à la demande de transfert d'eau de la Ville de Waukesha**

CONSIDÉRANT que le bassin des Grands Lacs et du Saint-Laurent représente environ 20 % des ressources mondiales en eau douce de surface et qu'il est à la base de la troisième économie mondiale,

CONSIDÉRANT que le 13 décembre 2005, les gouverneurs des États de l'Illinois, de l'Indiana, du Michigan, du Minnesota, de New York, de l'Ohio, de la Pennsylvanie et du Wisconsin, ainsi que les premiers ministres de l'Ontario et du Québec ont signé l'Entente sur les ressources en eaux durables du bassin des Grands Lacs et du fleuve Saint-Laurent (l'Entente) créant le Conseil régional des Grands Lacs et du Saint-Laurent (Conseil régional) et que les mêmes gouverneurs ont signé le Pacte des Grands Lacs (le Pacte), qui a ensuite été approuvé par le Congrès américain et signé par le Président et que ces documents interdisent les transferts d'eau hors du bassin des Grands Lacs et du Saint-Laurent sauf pour les collectivités situées dans un comté chevauchant la ligne de partage des eaux entre le bassin des Grands Lacs et du Saint-Laurent et d'autres bassins,

CONSIDÉRANT que la ville de Waukesha, au Wisconsin, fait partie du Comté de Waukesha, qui chevauche ladite ligne de partage des eaux,

CONSIDÉRANT que la Ville de Waukesha a déposé une demande de transfert d'eau du lac Michigan afin de l'utiliser comme source d'alimentation en eau potable, selon l'exception prévue pour une « collectivité située dans un comté chevauchant la ligne de partage des eaux » auprès du Wisconsin Department of Natural Resources (demande),

CONSIDÉRANT que le Pacte requiert que les demandes de transfert d'eau respectent sept critères spécifiques,

CONSIDÉRANT que le Conseil Régional, après être parvenu à un accord sur une Déclaration de Conformité et une série de conditions, a fait part de ses recommandations au Conseil du Pacte, et que les huit États des Grands Lacs ont voté en faveur de la demande de Waukesha,

CONSIDÉRANT que le 21 juin 2016, le Conseil du Pacte a rendu une décision finale en faveur de la demande de Waukesha avec conditions,

CONSIDÉRANT que la demande de Waukesha ne respecte pas les termes de l'Entente ni du Pacte et que la jurisprudence causée par la Décision Finale en faveur de la demande est une source de préoccupation pour les maires de l'Alliance des Villes des Grands Lacs et du Saint-Laurent,

CONSIDÉRANT que l'aire de service approuvée contient toujours des parcelles de territoire de plusieurs collectivités qui ne font pas partie de la Ville de Waukesha et qui n'ont pas démontré de besoin d'alimentation en eau potable, ce qui constitue une violation du Pacte,



**VILLE DE  
SOREL-TRACY**

71, rue Charlotte, C.P. 368  
Sorel-Tracy (Québec) J3P 7K1



**Bureau du greffier**

Téléphone: 450 780-5600  
Télécopieur: 450 780-5625

N° 2016-12-921

-2-

Le 5 décembre 2016

CONSIDÉRANT que cette aire de service plus large ne constitue pas une « collectivité située dans un comté chevauchant la ligne de partage des eaux » tel que défini et requis par l'exception de l'Entente et du Pacte,

CONSIDÉRANT que des alternatives raisonnables d'approvisionnement en eau existent afin de répondre aux besoins en eau potable de la Ville de Waukesha tant en termes de quantité que de qualité,

CONSIDÉRANT que le retour des eaux vers le lac Michigan par la rivière Root générera des impacts potentiellement négatifs sur l'écosystème de la rivière et aux berges urbaines situées à son embouchure,

CONSIDÉRANT que les conditions posées par le Conseil Régional n'ont pas été soumises aux commentaires du public lorsque débattues par le Conseil Régional et le Conseil du Pacte malgré l'exigence du Pacte de soumettre toute information pertinente aux commentaires du public,

CONSIDÉRANT que la démarche d'examen du Conseil régional n'a pas offert au public les conditions adéquates pour s'exprimer étant donné la tenue d'une seule séance d'audience publique, ayant eu lieu à Waukesha même, et compte tenu que les centaines de commentaires du public s'opposant à la demande de Waukesha semblent avoir été largement ignorés durant le processus du Conseil Régional et du Conseil du Pacte,

IL EST PROPOSÉ par M. Patrick Péloquin, appuyé par M<sup>me</sup> Dominique Ouellet :

QUE la Ville de Sorel-Tracy réitère son engagement à la protection de nos ressources en eau en demandant aux gouverneurs des États de l'Illinois, de l'Indiana, du Michigan, du Minnesota, de New York, de l'Ohio, de la Pennsylvanie et du Wisconsin, ainsi qu'à leurs représentants au sein du Conseil du Pacte, de reconsidérer leur Décision Finale en faveur de la demande de Waukesha,

QUE la Ville de Sorel-Tracy appuie les mesures de contestation entreprises par l'Alliance des Villes des Grands Lacs et du Saint-Laurent auprès du Conseil du Pacte au sujet de la décision d'approuver la demande de la Ville de Waukesha, selon les procédures établies en vertu du Pacte. Celles-ci incluent la possibilité de déposer une pétition pour l'obtention d'une audience auprès du Conseil du Pacte ainsi que la possibilité d'intenter une requête de révision judiciaire de la Décision Finale,

QUE la Ville de Sorel-Tracy exhorte les gouverneurs et les premiers ministres du Conseil Régional et du Conseil du Pacte, en cohérence avec les bonnes pratiques de politiques publiques, de révoquer leur approbation de la demande de transfert d'eau de la Ville de Waukesha et de veiller à ce que les dispositions du Pacte soient strictement appliquées à cette demande et à toute demande ultérieure, afin de protéger les ressources limitées en eau du bassin des Grands Lacs et du fleuve Saint-Laurent.

Adoptée à l'unanimité des conseillers présents

Extrait certifié conforme  
Sorel-Tracy, le 6 décembre 2016

René Chevalier, greffier  
RC/ena



# EXHIBIT 2U



## Legal and Clerks Services

Office of the City Clerk  
PO Box 3012, 50 Church Street  
St. Catharines, ON L2R 7C2

Phone: 905.688.5600  
Fax: 905.682.3631  
TTY: 905.688.4TTY (4889)

September 6, 2016

Denis Coderre, Chair  
Great Lakes and St. Lawrence Cities Initiative  
Mayor of Montreal  
275 rue Notre-Dame Est  
Montréal, QC H2Y 1C6

**Re: Resolution - Opposition to Approval of Waukesha Water Diversion Application  
Our File No.: 35.11.2**

Please be advised that, at its meeting held on August 22, 2016, the Council of the City of St. Catharines, as a member of the Great Lakes-St. Lawrence Cities Initiative, unanimously supported the resolution of the GLSLCI regarding their opposition to the decision to approve the Waukesha Water Diversion Application.

Please see the resolution attached. If you have any questions, please contact the Office of the City Clerk at extension 1524.

Bonnie Nistico-Dunk, City Clerk

Attachment

cc Chris Bittle, MP St. Catharines, 1-61 Geneva Street, St. Catharines ON L2R 4M6  
Vance Badawey, MP St. Catharines, 103-136 East Main Street, Welland ON L3B 3W6  
Jim Bradley, MPP St. Catharines, 2-2 Secord Drive, St. Catharines ON L2N 1K8  
Cindy Forster, MPP St. Catharines, 102-60 King Street, Welland ON L3B 6A4  
Niagara Region  
Area Municipalities  
Dave Ullrich, Executive Director, GLSLCI, 2700-20 N Wacker Dr, Chicago IL 60606  
Mark Green, Transportation and Environmental Services, City of St. Catharines



## **City of St. Catharines**

### **RESOLUTION**

#### **OPPOSING THE APPROVAL OF THE WAUKESHA WATER DIVERSION APPLICATION**

**WHEREAS**, the Great Lakes and St. Lawrence River Basin represents approximately 20% of the world's surface freshwater resource and supports the third largest economy in the world; and

**WHEREAS**, on December 13, 2005, the Great Lakes Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin, and the Premiers of Ontario and Quebec signed the Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement (the "Agreement"), and the Governors endorsed the companion Great Lakes—St. Lawrence River Basin Water Resources Compact (the "Compact"), which was later approved by the United States Congress and signed by the President, banning new water diversions from the Basin except in communities located in counties straddling the water division line between the Great Lakes-St. Lawrence Basin and other basins; and

**WHEREAS**, the City of Waukesha, WI, is located in Waukesha County, a county straddling the basin division line; and

**WHEREAS**, the City of Waukesha applied to the Wisconsin Department of Natural Resources under the exception for a "Community within a Straddling County" to use Lake Michigan as its source of drinking water (the "Waukesha Application"); and

**WHEREAS**, the Compact requires proposals for diversions to satisfy seven specific conditions; and

**WHEREAS**, the Regional Body, after having reached an agreement on a Declaration of Finding and a set of conditions for the application, forwarded its recommendation to the Compact Council, and that all eight Great Lakes states voted in favor of the Waukesha Application; and



**WHEREAS**, on June 21, 2016, the Compact Council issued its Final Decision approving the Waukesha Application with Conditions; and

**WHEREAS**, the Waukesha Application does not meet the terms of the Agreement nor the Compact, and the precedent-setting nature of the Final Decision to approve the Application is of great concern to the Mayors of the Great Lakes and St. Lawrence Cities Initiative; and

**WHEREAS**, the approved service area still contains parts of communities which are not part of the City of Waukesha and which have not demonstrated a need for the water, amounting to a clear violation of the Compact; and

**WHEREAS**, this broader service area is not a “Community within a Straddling County” as defined and required by the exception conditions in the Agreement and Compact; and

**WHEREAS**, there are reasonable water supply alternatives to meet the drinking water quantity and quality needs of the City of Waukesha; and

**WHEREAS**, the impacts of the proposed return flow of water through the Root River to Lake Michigan are likely to have adverse impacts on the ecosystem and to the urban shores of the mouth of the River; and

**WHEREAS**, the Conditions for Approval were not subject to public comment while debated by the Regional Body and Compact Council despite the Compact’s requirement that all relevant information be available to the public for comment; and

**WHEREAS**, the Regional Body review process did not provide adequate opportunity for public comment as only one public meeting was held in the City of Waukesha, and that hundreds of public comments against the Application did not appear to be considered during the Regional Body or Compact Council process.

**THEREFORE, BE IT RESOLVED**, that the City of St. Catharines affirms its commitment to the protection of our water resources by calling on the Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin, and their representatives on the Compact Council to reconsider their Final Decision to approve the Waukesha Application; and



**BE IT FURTHER RESOLVED**, that the City of St. Catharines supports challenges by the Great Lakes and St. Lawrence Cities Initiative to the Compact Council's approval of the Waukesha Application under procedures adopted by the Compact Council, which may include requesting a hearing and initiating judicial review of the Final Decision; and

**BE IT FURTHER RESOLVED**, that the City of St. Catharines urges the Governors and Premiers of the Regional Body and Compact Council, consistent with good public policy, to reverse its approval of the Waukesha diversion application and ensure that the provisions of the Compact are strictly applied in this and any future application in order to protect the finite water resources of the Great Lakes and St. Lawrence River basin.

**FURTHER BE IT RESOLVED**, that this resolution be forwarded to all area municipalities, the Niagara Region, area MP's, and MPP's, for their support.

Signed this 22 day of August, 2016

A handwritten signature in black ink, appearing to be 'W. Kelly', is written over a horizontal line.

Mayor  
City of St. Catharines

# EXHIBIT 2V



## The Corporation of the Town of Tecumseh

---

November 24, 2016

Great Lakes and St. Lawrence Cities Initiative  
20 North Wacker Drive, Suite 2700  
Chicago, Illinois 60606  
USA  
Att: David A. Ullrich

Dear Mr. Ullrich,

**Re: Waukesha Diversion Application Challenge**

The Council of the Town of Tecumseh, at its regular meeting held Tuesday, November 22, 2016, gave consideration to your email dated November 7, 2016, opposing the diversion and supporting the Waukesha Diversion Challenge.

At their meeting, Tecumseh Council passed the following resolution [RCM-396/16]:

***"THAT the Great Lakes St. Lawrence Cities Initiative's resolution opposing the approval of the Waukesha Water Diversion Application be adopted by Council.***

*Carried"*

Please consider this letter as confirmation of the Town of Tecumseh's support of the resolution.

Yours very truly,

Laura Moy,  
Dipl.M.M, CMMIII HR Professional  
Director Corporate Services & Clerk  
LM/nm

# EXHIBIT 2W





# The Corporation of the City of Thunder Bay

## RESOLUTION

**Meeting:** Committee of the Whole

**Meeting Date:** 10/31/2016

**Moved by:** Mayor K. Hobbs

**Seconded by:** Councillor A. Foulds



CARRIED



AMENDED



LOST



DEFERRED/  
REFERRED

**Subject:** Amended Resolution - Waukesha Water Diversion

### Resolution:

WHEREAS, the Great Lakes and St. Lawrence River Basin represents approximately 20% of the world's surface freshwater resource and supports the third largest economy in the world; and

WHEREAS, on December 13, 2005, the Great Lakes Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin, and the Premiers of Ontario and Quebec signed the Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement (the "Agreement"), and the Governors endorsed the companion Great Lakes—St. Lawrence River Basin Water Resources Compact (the "Compact"), which was later approved by the United States Congress and signed by the President, banning new water diversions from the Basin except in communities located in counties straddling the water division line between the Great Lakes-St. Lawrence Basin and other basins; and

WHEREAS, the City of Waukesha, WI, is located in Waukesha County, a county straddling the basin division line; and

WHEREAS, the City of Waukesha applied to the Wisconsin Department of Natural Resources under the exception for a "Community within a Straddling County" to use Lake Michigan as its source of drinking water (the "Waukesha Application"); and

WHEREAS, the Compact requires proposals for diversions to satisfy seven specific conditions; and

WHEREAS, the Regional Body, after having reached an agreement on a Declaration of Finding and a set of conditions for the application, forwarded its recommendation to the Compact Council, and that all eight Great Lakes states voted in favour of the Waukesha Application; and

WHEREAS, on June 21, 2016, the Compact Council issued its Final Decision approving the Waukesha Application with Conditions; and

WHEREAS, the Waukesha Application does not meet the terms of the Agreement nor the Compact, and the precedent-setting nature of the Final Decision to approve the Application is of great concern to the Mayors of the Great Lakes and St. Lawrence Cities Initiative; and

WHEREAS, the approved service area still contains parts of communities which are not part of the City of Waukesha and which have not demonstrated a need for the water, amounting to a clear violation of the Compact; and

WHEREAS, this broader service area is not a "Community within a Straddling County" as defined and required by the exception conditions in the Agreement and Compact; and

WHEREAS, there are reasonable water supply alternatives to meet the drinking water quantity and quality needs of the City of Waukesha; and

WHEREAS, the impacts of the proposed return flow of water through the Root River to Lake Michigan are likely to have adverse impacts on the ecosystem and to the urban shores of the mouth of the River; and

WHEREAS, the Conditions for Approval were not subject to public comment while debated by the Regional Body and Compact Council despite the Compact's requirement that all relevant information be available to the public for comment; and

WHEREAS, the Regional Body review process did not provide adequate opportunity for public comment as only one public meeting was held in the City of Waukesha, and that hundreds of public comments against the Application did not appear to be considered during the Regional Body or Compact Council process.

THEREFORE, BE IT RESOLVED, that the City of Thunder Bay affirms its commitment to the protection of our water resources by calling on the Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin, and their representatives on the Compact Council to reconsider their Final Decision to approve the Waukesha Application; and

BE IT FURTHER RESOLVED, that the City of Thunder Bay supports challenges by the Great Lakes and St. Lawrence Cities Initiative to the Compact Council's approval of the Waukesha Application under procedures adopted by the Compact Council, which may include requesting a hearing and initiating judicial review of the Final Decision; and

BE IT FINALLY RESOLVED, that the City of Thunder Bay urges the Governors and Premiers of the Regional Body and Compact Council, consistent with good public policy, to reverse its approval of the Waukesha diversion application and ensure that the provisions of the Compact are strictly applied in this and any future application in order to protect the finite water resources of the Great Lakes and St. Lawrence River basin;

AND THAT copies of this resolution be forwarded to the Lakehead Region Conservation Authority, the municipalities on Lake Superior, The Right Honourable Justin Trudeau, Prime Minister of Canada and The Honourable Barack Obama, President of the United States of America.

infrastructure, equipment and software, additional IT support and services, as well as further risk management resources, will be required;

AND WHEREAS while there will be benefits from NG911, the cost of improving and expanding the NG 911 services will become a burden to municipalities and police services across Ontario, who serve as the PSAP, and thus to the property taxpayer;

AND WHEREAS TCCs and WSPs have been receiving revenues from their customers through surcharges on telephone and wireless lines for 911 services;

AND WHEREAS 8 other Provinces have already enacted legislation to allow their municipalities and police services to recoup costs associated with the operation of PSAPs and the provision of 911 services to telephone and wireless lines, whereas the Province of Ontario has not;

THEREFORE BE IT RESOLVED THAT the City of Thunder Bay directly lobby the provincial government to enact legislation that would permit TCCs and WSPs to bill and collect, on behalf of municipalities and police services in Ontario, a PSAP fee to help offset costs associated with implementing NG911 services, and to work with other organizations, such as the Association of Municipalities of Ontario (AMO), Northwestern Ontario Municipal League (NOMA), Federation of Northern Ontario Municipalities (FONOM) and the Ontario Association of Police Services Boards (OAPSB), among others, to assist in this endeavor;

AND THAT an education component be included on the implementation of the Next Generation 9-1-1 Services;

AND THAT a copy of this resolution be forwarded to AMO, NOMA, FONOM and OAPSB;

AND THAT any necessary by-laws be presented to City Council for ratification.

# EXHIBIT 2X





**Tiny**  
TOWNSHIP OF / CANTON DE

130 BALM BEACH ROAD WEST  
TINY, ONTARIO L0L 2J0  
(705) 526-4204 1-866-939-8469  
FAX (705) 526-2372  
www.tiny.ca

December 6, 2016

Mr. David Ullrich, Executive Director  
Great Lakes and St. Lawrence Cities Initiative  
20 North Wacker Drive, Suite 2700  
Chicago, Illinois  
60606

Dear Mr. Ullrich:

**Re: Waukesha Diversion Application Challenge**

Your correspondence dated November 17, 2016, regarding the Waukesha Water Diversion Application Challenge was reviewed by Council at its meeting of November 28, 2016.

As a result, we are pleased to advise that Council supports the Great Lakes and St. Lawrence Cities Initiative in this matter, and opposes the approval of the Waukesha Water Diversion Application.

Sincerely,

**THE CORPORATION OF THE TOWNSHIP OF TINY**

*Sue Walton*

Sue Walton, Deputy Clerk

c.c. Mayor and Members  
Doug Luker, C.A.O./Clerk

Encl. Resolution 608/16



**THE CORPORATION OF THE TOWNSHIP OF TINY**

**Meeting Date: November 28, 2016**

**Moved by:** [Signature]

**Carried:** 4-0

**Seconded by:** [Signature]

**Defeated:** [Signature]

**Signed:** [Signature]

**WHEREAS** Council in the Committee of the Whole considered correspondence received November 17, 2016, from the Great Lakes and St. Lawrence Cities Initiative, requesting that Council pass a resolution against the Waukesha Diversion Application;

**AND WHEREAS**, due to the time sensitive nature of the request, it was recommended that the matter be ratified at the Regular Meeting of Council of November 28, 2016;

**NOW THEREFORE BE IT RESOLVED THAT** Council herein supports the Great Lakes and St. Lawrence Cities Initiative and opposes the approval of the Waukesha Water Diversion Application.

# EXHIBIT 2Y



## *Municipalité de Verchères*

581, route Marie-Victorin, Verchères (Québec) J0L 2R0  
téléphone (450) 583-3307, télécopieur (450) 583-3637  
www.ville.vercheres.qc.ca courriel : mairie@ville.vercheres.qc.ca

### EXTRAIT DE PROCÈS-VERBAL

Séance ordinaire du conseil de la Municipalité de Verchères, tenue à la mairie, le 5 décembre 2016 à 20 heures à laquelle assemblée sont présents le maire monsieur Alexandre Bélisle.

Mesdames les conseillères Michèle Tremblay et Nathalie Fillion, messieurs les conseillers André Dansereau, Luc Fortin, Gilles Lamoureux et Claude Ménard.

#### **402-2016      APPUI À L'ALLIANCE DES VILLES, DES GRANDS LACS ET DU ST-LAURENT : OPPOSITION À LA DEMANDE DE TRANSFERT D'EAU**

**ATTENDU QUE** le bassin des Grands Lacs et du Saint-Laurent représente environ 20 % des ressources mondiales en eau douce de surface et qu'il est à la base de la troisième économie mondiale ;

**ATTENDU QUE** le 13 décembre 2005, les gouverneurs des États de l'Illinois, de l'Indiana, du Michigan, du Minnesota, de New York, de l'Ohio, de la Pennsylvanie et du Wisconsin, ainsi que les premiers ministres de l'Ontario et du Québec ont signé l'Entente sur les ressources en eaux durables du bassin des Grands Lacs et du fleuve Saint-Laurent (l'Entente) créant le Conseil régional des Grands Lacs et du Saint-Laurent (Conseil régional) et que les mêmes gouverneurs ont signé le Pacte des Grands Lacs (le Pacte), qui a ensuite été approuvé par le Congrès américain et signé par le Président et que ces documents interdisent les transferts d'eau hors du bassin des Grands Lacs et du Saint-Laurent sauf pour les collectivités situées dans un comté chevauchant la ligne de partage des eaux entre le bassin des Grands Lacs et du Saint-Laurent et d'autres bassins ;

**ATTENDU QUE** la ville de Waukesha, au Wisconsin, fait partie du Comté de Waukesha, qui chevauche ladite ligne de partage des eaux ;

**ATTENDU QUE** la Ville de Waukesha a déposé une demande de transfert d'eau du lac Michigan afin de l'utiliser comme source d'alimentation en eau potable, selon l'exception prévue pour une « collectivité située dans un comté chevauchant la ligne de partage des eaux » auprès du Wisconsin Department of Natural Resources (demande) ;

**ATTENDU QUE** le Pacte requiert que les demandes de transfert d'eau respectent sept critères spécifiques ;

**ATTENDU QUE** le Conseil Régional, après être parvenu à un accord sur une Déclaration de Conformité et une série de conditions, a fait part de ses recommandations au Conseil du Pacte, et que les huit États des Grands Lacs ont voté en faveur de la demande de Waukesha ;

**ATTENDU QUE** le 21 juin 2016, le Conseil du Pacte a rendu une décision finale en faveur de la demande de Waukesha avec conditions ;

**ATTENDU QUE** la demande de Waukesha ne respecte pas les termes de l'Entente ni du Pacte et que la jurisprudence causée par la Décision Finale en faveur de la demande est une source de préoccupation pour les maires de l'Alliance des Villes des Grands Lacs et du St-Laurent ;

**ATTENDU QUE** l'aire de service approuvée contient toujours des parcelles de territoire de plusieurs collectivités qui ne font pas partie de la Ville de Waukesha et qui n'ont pas démontré de besoin d'alimentation en eau potable, ce qui constitue une violation du Pacte ;



**ATTENDU QUE** cette aire de service plus large ne constitue pas une « collectivité située dans un comté chevauchant la ligne de partage des eaux » tel que défini et requis par l'exception de l'Entente et du Pacte ;

**ATTENDU QUE** des alternatives raisonnables d'approvisionnement en eau existent afin de répondre aux besoins en eau potable de la Ville de Waukesha tant en termes de quantité que de qualité ;

**ATTENDU QUE** le retour des eaux vers le lac Michigan par la rivière Root générera des impacts potentiellement négatifs sur l'écosystème de la rivière et aux berges urbaines situées à son embouchure ;

**ATTENDU QUE** les conditions posées par le Conseil Régional n'ont pas été soumises aux commentaires du public lorsque débattues par le Conseil Régional et le Conseil du Pacte malgré l'exigence du Pacte de soumettre toute information pertinente aux commentaires du public ;

**ATTENDU QUE** la démarche d'examen du Conseil régional n'a pas offert au public les conditions adéquates pour s'exprimer étant donné la tenue d'une seule séance d'audience publique, ayant eu lieu à Waukesha même, et compte tenu que les centaines de commentaires du public s'opposant à la demande de Waukesha semblent avoir été largement ignorés durant le processus du Conseil Régional et du Conseil du Pacte.

Pour ces motifs, il est proposé par monsieur André Dansereau appuyé par monsieur Gilles Lamoureux et unanimement résolu que la Municipalité de Verchères réitère son engagement à la protection de nos ressources en eau en demandant aux gouverneurs des États de l'Illinois, de l'Indiana, du Michigan, du Minnesota, de New York, de l'Ohio, de la Pennsylvanie et du Wisconsin, ainsi qu'à leurs représentants au sein du Conseil du Pacte, de reconsidérer leur Décision Finale en faveur de la demande de Waukesha ;

Il est également résolu que la Municipalité de Verchères appuie les mesures de contestation entreprises par l'Alliance des Villes des Grands Lacs et du St-Laurent auprès du Conseil du Pacte au sujet de la décision d'approuver la demande de la Ville de Waukesha, selon les procédures établies en vertu du Pacte.

Celles-ci incluent la possibilité de déposer une pétition pour l'obtention d'une audience auprès du Conseil du Pacte ainsi que la possibilité d'intenter une requête de révision judiciaire de la Décision Finale ;

Il est enfin résolu que la Municipalité de Verchères exhorte les gouverneurs et les premiers ministres du Conseil Régional et du Conseil du Pacte, en cohérence avec les bonnes pratiques de politiques publiques, de révoquer leur approbation de la demande de transfert d'eau de la Ville de Waukesha et de veiller à ce que les dispositions du Pacte soient strictement appliquées à cette demande et à toute demande ultérieure, afin de protéger les ressources limitées en eau du bassin des Grands Lacs et du fleuve Saint-Laurent.

Adopté.

Certifié ce 8 décembre, 2016



Luc Forcier, g.m.a.  
Secrétaire-trésorier

# EXHIBIT 2Z

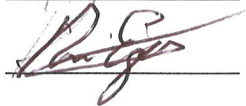
**7. CORRESPONDENCE – Requiring Action****a) Great Lakes and St. Lawrence Cities Initiative – re the Waukesha Diversion Application Challenge**

MOVED BY



DATE: NOVEMBER 22, 2016

SECONDED BY



RESOLUTION NO. 2016-20-03

RESOLVED THAT the Council of the Town of Wasaga Beach support the resolution received on November 17, 2016 from the Great Lakes and Saint Lawrence Cities Initiative to:

- reconsider its Final Decision approving the Waukesha Application;
- support challenges by the Great Lakes and St. Lawrence Cities Initiative to the Compact Council's approval of the Waukesha Application;
- urge the Governors and Premiers of the Regional Body and Compact Council to reverse its approval of the Waukesha diversion application and ensure that the provisions of the Compact are strictly applied in this and any future application in order to protect the finite water resources of the Great Lakes and St. Lawrence River basin.

| ABSTAIN | YEA | VOTING                   | NAY |
|---------|-----|--------------------------|-----|
|         | ✓   | CLLR. J. BELANGER        |     |
|         | ✓   | DEPUTY MAYOR N. BIFOLCHI |     |
|         | ✓   | CLLR. S. BRAY            |     |
|         | ✓   | CLLR. R. EGO             |     |
|         | ✓   | CLLR. B. SMITH           |     |
|         | ✓   | CLLR. B. STOCKWELL       |     |
|         | ✓   | MAYOR B. F. SMITH        |     |

CARRIED  DEFEATED \_\_\_\_\_

# EXHIBIT 2AA



City of Welland  
Legislative Services  
Office of the City Clerk  
60 East Main Street, Welland, ON L3B 3X4  
Phone: 905-735-1700 Ext. 2159 | Fax: 905-732-1919  
Email: clerk@welland.ca | www.welland.ca

December 9, 2016

**File No. 16-122**

Great Lakes and St. Lawrence Cities Initiative  
20 North Wacker Drive, Suite 2700  
Chicago, Illinois, USA  
60606

Attention: David A. Ullrich, Executive Director

Dear Mr. Ullrich:

**Re: December 6, 2016 – WELLAND CITY COUNCIL**

At its meeting of December 6, 2016, Welland City Council passed the following motion:

**“THAT THE COUNCIL OF THE CITY OF WELLAND affirms its commitment to the protection of our water resources by calling on the Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin, and their representatives on the Compact Council to reconsider their Final Decision to approve the Waukesha Application; and**

**THAT Welland City Council supports challenges by the Great Lakes and St. Lawrence Cities Initiative to the Compact Council's approval of the Waukesha Application under procedures adopted by the Compact Council, which may include requesting a hearing and initiating judicial review of the Final Decision; and further**

**THAT Welland City Council urges the Governors and Premiers of the Regional Body and Compact Council, consistent with good public policy, to reverse its approval of the Waukesha diversion application and ensure that the provisions of the Compact are strictly applied in this and any future application in order to protect the finite water resources of the Great Lakes and St. Lawrence River Basin.”**

Yours truly,

Tara Stephens  
City Clerk

TS:kl

c.c.: Mr. Vance Badawey, M.P.  
Ms. Cindy Forster, M.P.P.  
Area Municipalities