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Re: 8th Canada-Ontario Agreement on Great Lakes Water Quality and Ecosystem Health (EBR Registry number 011-929)

We write today to respond to the draft Canada-Ontario Agreement on Great Lakes Water Quality and Ecosystem Health (COA). We hope our submission is helpful in ensuring full implementation of a sustainable water quality program for all Great Lakes residents.

Our first priority should be returning to a COA framework¹ as soon as possible. The previous COA (signed in 2007) expired over two years ago on June 24, 2012. It was extended twice (each time for one year) beyond its original expiry date. It is absolutely critical to finalize this COA to ensure the restoration, protection and conservation of the Great Lakes-St. Lawrence River basin, and to also enable full implementation of the Canada-United States Great Lakes Water Quality Agreement of 2012 (GLWQA), which came into force on February 12, 2013 (per exchange of diplomatic notes).

The Great Lakes need help

The Great Lakes are more than an alluring landscape – they are also a source of food and economic growth. Climate change, invasive species, habitat loss, and pollution now threaten to degrade that resource. We cannot afford to let that happen for both the sake of our economy and health.

The Great Lakes economy, which supports 56 million jobs and a GDP of \$5.1 trillion, could be negatively impacted by a decline in water quality. In Ontario, the Great Lakes commercial and recreational fishing industries contribute about \$234 million and \$600 million annually to Ontario's economy respectively. Over 73 million tourists visited Ontario in 2010, spending over \$12.3 billion².

The health of 40 million people who live in the Great Lakes basin is also tied to the health of the Lakes. Over 70 per cent of Ontario residents, or three out of four residents³, get their drinking water from the Lakes, and yet toxic chemicals and other pollutants are building up in the water. Some of these harmful chemicals are toxic and could have long-term, chronic human health effects⁴.

¹ When finalized, the COA will provide a framework for Canada and Ontario to make decisions regarding Great Lakes programming and how to engage First Nations, Métis, and the Great Lakes community in the implementation of this Agreement.

² [Ontario's Great Lakes Strategy](#), 2012.

³ Ontario Ministry of Natural Resources. 2012. [Great Lakes - Connected to Our Economy and Our Way of Life](#).

⁴ U.S. Environmental Protection Agency. 2012. [The Effects of Great Lakes Contaminants on Human Health](#).

Urgent action needed

Great Lakes water quality problems are just as serious now, if not more so, than they were in 1972, when Canada and the U.S. set out very specific targets and timelines in the original Great Lakes Water Quality Agreement. Throughout the 1970s, that Agreement brought together all governments at the federal, provincial and state levels to make drastic improvements in water quality.

The revised international agreement, the Great Lakes Water Quality Protocol of 2012, sets a framework for change, but relies on the parties to implement its vision. The COA, as a prime implementation tool, should be more specific than the GLWQA, taking us a major step forward to an implementation plan. We expect the next COA to follow the lead of the GLWQA and address new and emerging issues such as climate change and invasive species, with clear timelines and measurable targets that can rally the key stakeholders into action.

We urgently need concrete, ambitious timelines and targets that drive investment, programs and collaboration towards addressing existing and emerging threats. Governments have a duty to protect and restore the Great Lakes for the benefit of present and future generations. Inaction will be costly for Ontarians in terms of their health, their wealth, and their natural security. To that end, we make the following eleven recommendations.

Recommendations

1. Ensure swift finalization and implementation of the Canada-Ontario Agreement on Great Lakes Water Quality and Ecosystem Health, 2014

We strongly encourage the governments of Canada and Ontario to make it a priority to ensure the COA is finalized quickly. To give the public confidence that the new COA will be implemented and achieve the goals that it outlines, each government should announce specific financial commitments at the time of the signing of the new COA.

2. Annex 1: Nutrients – Focus initial implementation efforts on those watersheds contributing the most phosphorus to the Great Lakes such as those in the western Lake Erie basin and in the Bay of Quinte.

In regards to the COA Annex on Nutrients, we strongly support the commitment under Result 1.1 to investigate the contribution of natural heritage features including wetlands in reducing excess phosphorus loading from rural and agricultural landscapes.

We are also pleased with the plans to set specific timelines and targets with respect to nutrient loading to Lake Erie. However, given that the GLWQA includes a timeline and targets for phosphorus, the COA should use those same numbers while more stringent targets are being developed. It will be critical for the governments of Canada and Ontario to work collaboratively with the agricultural and municipal sectors to develop the targets and action plans.

We would like to see improved substantive reporting on nutrient loading and concentrations that are related to ecological outcomes as a part of the COA implementation strategy. Additionally, we need to

apply an adaptive management approach to ensure our intervention efforts are responsive to new data and information. Also, we urge efforts to be focused on areas of highest stress, and in particular those watersheds that are delivering the most phosphorus to the Great Lakes – such as in western Lake Erie, and the Bay of Quinte.

Finally, Annex 1 should recognize the connection to Annex 2 (Harmful Pollutants), specifically with respect to the link between excessive nutrients and toxicity as a result of Harmful Algal Blooms.

3. Annex 2: Harmful Pollutants – The new COA should re-establish a goal of virtual elimination and zero discharge using a life cycle, cradle to cradle approach. Enhanced environmental monitoring and biomonitoring programs are urgently required.

Since the last negotiated COA was released in 2007, there has been a rise in the number of studies demonstrating the presence of chemicals of emerging concern in the Great Lake basin. Although previous COAs have contributed to the reduction of these key toxic chemicals over the past 40 years, the ongoing presence of toxic chemicals in the Great Lakes basin demonstrates we are not doing enough to address this growing threat. We urgently recommend that Annex 2 ultimately focuses on virtual elimination and zero discharge to address harmful pollutants. Currently, the proposed COA has not included a list of harmful pollutants.

The COA should apply a life cycle approach from cradle to cradle in addressing harmful pollutants. This approach would consider the fate and health effects of a substance on the environment and human populations over the course of its existence, particularly at the end of its life. This includes evaluating the substance’s manufacturing process, its use, disposal and potential recycling phases.

In particular, we recommend that Result 2.3 be revised to focus on the use of strategies aimed to eliminate toxic chemicals in the Great Lakes basin. This would include consideration of prevention or avoidance of toxic chemicals as well as application of safer alternatives to toxic chemicals.

We also urge the COA parties to support enhanced monitoring and biomonitoring of the effects of toxic chemicals on fish, wildlife and human populations. We need to improve understanding of the causal links between health and toxic chemicals as long as it is not a barrier taking preventative action.

Further recommendations regarding Annex 2 can be found in a detailed submission from the Canadian Environmental Law Association.

4. The COA should set and achieve a “target of net habitat gain” for Great Lakes wetlands and natural heritage features, and begin implementation of the lakewide habitat and species protection and restoration conservation strategies within two years

Wetland conservation (e.g., protection, restoration, enhancement, and management) and protection of natural heritage features must be a central plank in achieving the purposes and objectives of the GLWQA and the 2014 COA, including the objective under the GLWQA Article 3, General Objectives which states: “The Waters of the Great Lakes should: . . . (v) support healthy and productive wetlands and other habitats to sustain resilient populations of native species”.

Wetland conservation is especially important with respect to meeting the goals of several the COA Annexes including COA Annexes 1, 5, 7, and 9 (Nutrients, Lakewide Management, Habitat and Species, and Climate Change Impacts). For example, more effective protection and restoration of Great Lake basin wetlands, which provide essential habitat for a wide range of species including many species-at-risk, will be critical to meet the goals under the COA Annex 7 for Habitat and Species. To that end, we strongly support a “target of net habitat gain” as referenced in both the GLWQA and the COA Annexes concerning Habitat and Species; as well as the establishment of a target of net habitat gain *specifically for wetlands* with clear consideration of resilience of such habitat to climate change. This is currently not included in the GLWQA or the draft COA. These targets should be consistent with the principle of “net gain” identified in the draft COA Article 3 (i) that recognizes that “human development and management actions [should] maximize environmental benefits rather than acting only to minimize environmental costs”.

In addition, in order to achieve those targets, we strongly support the completion and implementation, within two years of the GLWQA coming into force, of “lakewide habitat and species protection and restoration conservation strategies”, as indicated in the GLWQA Annex on Habitat and Species.

5. Annex 4: Areas of Concern - Reprioritize the delisting of all of Canada’s Areas of Concerns

While we are supportive of the commitment towards delisting five identified Areas of Concern in Goal 1 of Annex 4, we would like to see a commitment to taking appropriate action that will work towards the delisting of all of Canada’s Areas of Concerns within reasonable timeframes.

For example, regarding Result 2.3 (b), we recommend that the Canadian and Ontario governments commit to making significant progress on the Randle Reef Contaminated Sediment Management Project in the Hamilton Harbour AOC.

6. All data and information collected through the COA should be made publicly available

Data and information collected through the COA programs and policies should be made available to the public. Specifically, under Annex 5, Goal 3, Result 3.5, water use data should not only be made available to water management agencies but also the public at large. This would assist the Great Lakes community’s efforts to identify and address priority issues.

7. Ensure financial capacity to encourage adequate First Nations and Métis representation

We are pleased that Canada and Ontario have both taken steps to reconcile First Nation’s and Métis’ inherent jurisdictions and interests in the Great Lakes region with those of the federal and provincial governments, and have done so through Annexes 13 and 14.

Nonetheless, we are concerned that the stated goals of the draft COA will go unfulfilled should insufficient finances be provided to ensure adequate First Nations and Métis capacity and representation. We strongly encourage meaningful consultation with these communities to determine the resources needed to ensure such representation.

8. Designate specific funding to the implementation of the COA

Commitment of appropriate resources by the Ontario and Canadian governments is critical to the effective implementation of the new COA. Without adequate capacity and financial allocations to each of the government departments listed as signatories and to the Great Lakes community that is involved in implementation, we are concerned that Canada and Ontario will be unable to meet the goals of each annex. Funding commitments by both Ontario and Canada should be explicitly stated in the COA.

The original objective of the first COA when it was signed in 1971 was to provide a basis for discharging Canadian responsibilities to Ontario under the GLWQA. The initial agreement from August 1971 to December 1975 authorized \$3 million for feasibility studies and joint sewage treatment technology and urban drainage research.

Also under that original agreement, Canada through the Canadian Mortgage and Housing Corporation (CMHC) provided \$250 million in low interest, partially-forgiven loans for municipal sewage treatment. Between 1976 and the early 1980s CMHC continued to provide loans under a separate agreement, and between 1982 and 1985, the federal government provided an additional \$65 million to complete the municipal sewage facilities required to meet the terms of the 1978 GLWQA.

Under subsequent COAs federal contributions from the Canada Water Act fund were generally held constant at approximately \$1.2 million per year. Those funds supported provincial efforts related to monitoring, research, and pollution abatement. Since the early 1990s when the Canada Water Act Fund was largely abolished, announcements regarding the COA updates have avoided firm funding commitments. Funding levels for the 8th COA should be restored to at least the same levels as in the 1970s.

We are supportive of the suggested five-year timeframe of the agreement. A five-year agreement importantly provides continuity to existing programs doing work on-the-ground. So in addition to restoring funding to at least 1970s levels, we strongly urge the governments of Ontario and Canada to fund the agreement to meet its obligations over a minimum of five years.

9. Enhance public engagement opportunities

Key to the success of the COA will be the level of support from the Great Lakes community in implementation. Therefore, we recommend that opportunities for meaningful public engagement be enhanced in the implementation of this COA, as well as during negotiations for the next COA.

As well, Article V should create mechanisms for ensuring that representatives of the Great Lakes community have a formal role in oversight and decision-making related to the administration of the Agreement. This could be achieved by establishing a public advisory body that provides input to the COA Executive Committee, and by ensuring that representative community members participate in each of the COA annex committees. This aligns with the process of the GLWQA.

Specifically, Article IX notes that the “Parties commit to engaging the Great Lakes community, **as appropriate**, when amending the Agreement.” [emphasis added] We recommend the term “as appropriate” be removed.

In addition, while we appreciate that the draft COA commits to engaging communities, it is critical that agencies and partners work closely together to better promote to the general public the great work that is being done on the lakes and in the watershed through the COA.

Ontario’s Great Lakes community is dedicated to being involved in the implementation of COA and we look forward to working collaboratively with all levels of government to do so.

10. Implement COA using a collaborative governance approach

Achieving the vision of COA – a healthy, prosperous, and sustainable Great Lakes for present and future generations – will require a collaborative effort among all levels of government and the Great Lakes community. In the implementation of the COA, the governments of Ontario and Canada should utilize a collaborative governance approach. The successful Remedial Action Plan model exemplifies the positive results that can happen when communities and governments work together to achieve results.

11. Report back

To ensure accountability to the Great Lakes community, we strongly recommend that the governments of Canada and Ontario report on progress made under the COA annually, using a consistent set of measures to describe, among other things, actions that have been taken to address priority issues, and what will be done in the future to address emerging threats. These reports need to be presented to the Legislature and Parliament and made available to the public to ensure that actions being taken to date are effective and efficient, and that progress continues.

In addition, the annual COA progress reports should be complemented by legislative and parliamentary committee hearings to ensure a thorough analysis of Great Lakes programming under the COA.

Conclusion

We are pleased that some municipalities in Ontario are striving to ensure sustainable water management. For example, 10 communities have declared support for stronger legislative protection of the Great Lakes from the province. We believe local communities should be supported in their efforts to protect water quality in the Great Lakes basin.

Thank you for providing an opportunity to comment on this complex issue. We hope Ontario and Canada will prioritize following through to a finalized COA and will thoroughly engage the public and adequately fund community and government projects and programs. We believe our recommendations are crucially important to seeing the Great Lakes region achieve a shared vision of a healthy, prosperous, and sustainable Great Lakes for present and future generations. We would be happy to discuss any recommendations at your convenience.

Ontario Submission – EBR Registry number 011-929

The submission is authored by Environmental Defence with input from the Great Lakes community. The following Canadian organizations have endorsed this submission:

Canadian Environmental Law Association

Theresa McClenaghan
Executive Director

Canadian Federation of University Women (CFUW OC)

Brenda Robertson, President
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Citizens Environment Alliance of Southwestern Ontario

Derek Coronado, Coordinator

Clean Production Action

Beverley Thorpe
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Dr. Gail Krantzberg

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Terry Rees
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Ontario Headwaters Institute

Andrew McCammon
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Ontario Rivers Alliance

Linda Heron
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Trout Unlimited Canada

Jack Imoff
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Wallaceburg Advisory Team for a Cleaner Habitat (WATCH)

Kris Lee
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The following American organizations have endorsed this submission:

Alliance for the Great Lakes

Lyman C. Welch
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Great Lakes Environmental Law Center

Nick Schroeck
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Michigan Clean Water Action

Nic Clark
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Michigan League of Conservation Voters

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