

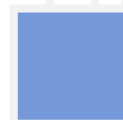
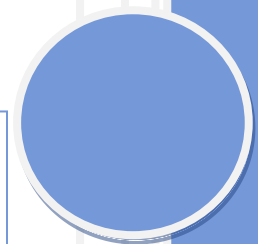
GREAT LAKES COMMUNITY FEEDBACK

Summary of ideas for the reintroduction of Great Lakes Protection legislation

This document summarizes what some members of the Great Lakes community think should be included in the next proposed Great Lakes Protection Act. Individuals were given the opportunity to provide ideas by submitting written comments or through a conference call held on July 24, 2014. This report was prepared by Nancy Goucher at Environmental Defence on behalf of the Great Lakes Protection Act Alliance.

This report does not reflect the recommendations or opinions of the Great Lakes Protection Act Alliance, but is intended to inform ongoing exchanges of perspectives and input.

Prepared by: Nancy Goucher, Environmental Defence
August 15, 2014



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This report consolidates the comments from the Great Lakes community (i.e., comments are not verbatim) organized into four categories:

1. Comments related to the bill as it was previously structured;
2. Comments related to scope of bill and issues that it should address;
3. Comments related to complementary pieces of legislation and water policy, roles, and responsibilities; and
4. Comments related to process in developing a new bill and moving it through the legislative process.

There was a general consensus that there is support for moderate changes to the previous version of the proposed Great Lakes Protection Act (Bill 6). There is particular support for the new version of proposed Great Lakes Protection legislation to address the following five areas:

- Strong target setting authority
- Baseline monitoring and assessment
- Watershed approach
- Public trust
- Climate change

Environmental Defence will distribute this report to the Great Lakes community and to all political parties, including government.

The Great Lakes Protection Act Alliance (consisting of the Canadian Environmental Law Association, Ducks Unlimited Canada, Ecojustice, and Environmental Defence) will use the content of this report to inform their ongoing discussions related to Great Lakes Protection legislation and other environmental policy work.

PURPOSE OF CONSULTATION EXERCISE AND REPORT

The purpose of the conference call and this report is to:

- Provide information about the current status of the legislation (Bill 6 “died on the order paper” when the provincial election was called. While the current government has promised to reintroduce Great Lakes Protection legislation, it has not happened yet).
- Encourage ongoing discussion about what is needed to enhance Great Lakes protection
- Provide information about some of the trade-offs required in advocating for alternative versions of Great Lakes Protection legislation
- Consolidate and share ideas for Great Lakes Protection legislation with all political parties, including government and Great Lakes community
- To check back with the community as the Alliance continues their ongoing discussions with government about the scope of a new bill

WHO DID WE HEAR FROM?

Environmental Defence invited over 100 members of the Great Lakes community to attend a conference call on July 24, 2014. Over 30 people registered, most of who joined the call. The meeting began with a presentation (by Anastasia Lintner, Ecojustice) describing the history of the proposed legislation, the current political context and what it means for the new version(s) of a bill, potential next steps, and factors to consider moving forward. Theresa McClenaghan from Canadian Environmental Law Association moderated the discussion. Notes were taken by Nancy Goucher from Environmental Defence.

Conference call registrants (in no particular order):

- Peggy Hutchison, Grey Association for Better Planning
- Andrew McCammon, Ontario Headwaters Institute
- April Weppler, Freshwater Alliance
- George Powell, Blue Mountain Watershed Trust Foundation
- Kim Jarvi, Registered Nurses Association of Ontario
- Lino Grima, University of Toronto
- Alice Casselman, Association for Canadian Educational Resources
- Tony Maas, Maas Strategies
- Gail Krantzberg, McMaster University
- Raveena Nuaimy-Barker, Sustain Ontario
- Jim Olson, For the Love of Water (Michigan)
- Scott Peck, Hamilton Conservation Authority
- Jo-Anne Rzadki, Conservation Ontario
- Jill Ryan, Freshwater Future
- Kevin Rich, Ducks Unlimited Canada
- Frank Smith, Toward Balance Support Network
- Carolyn Day, CFUW Ontario Council
- Linda Heron, Ontario Rivers Alliance
- Tim Seitz
- Ralph Pentland, Forum for Leadership on Water (FLOW)
- Eric Mysak, WWF-Canada

- Raj Gill, Freshwater Alliance
- Gary Christie, Nottawasaga Steelheaders
- Catherine Masson
- Derek Brzoza, Rain to River Consulting
- Nicole McLellan, University of Guelph PhD student
- Lloyd Helferty, Principal, Biochar Consulting
- Derek Coronado, Citizens Environmental Alliance
- Shelly Hazen, TRCA
- Thomas Dyck, PhD student, Laurier
- Anastasia Lintner, Ecojustice
- Nancy Goucher, Environmental Defence
- Mary Muter, Sierra Club
- Kris Lee, Wallaceburg Advisory Team for a Cleaner Habitat (WATCH)
- Clifford Maynes, Green Communities Canada
- Representative, Ontario Water Centre
- Theresa McClenaghan, CELA

Additional oral or written feedback also provided by:

- Andrew McCammon, Ontario Headwaters Institute
- Gary Skerrett, Ontario Shoreline Association
- Alice Casselman, Association for Canadian Educational Resources
- Gary Christie, Nottawasaga Steelheaders
- Jim Olson, For the Love of Water
- Clifford Maynes, Green Communities Canada
- Linda Heron, Ontario Rivers Alliance
- Lino Grima, University of Toronto

CONSOLIDATED COMMENTS

We heard a number of comments on the conference call as well as through follow up phone calls and emails. Those comments are summarized below in four categories:

1. Comments related to the bill as it was previously structured;
2. Comments related to scope of any future bill and issues that it should address;
3. Comments related to complementary pieces of legislation and water policy, roles, and responsibilities; and
4. Comments related to process in developing a new bill and moving it through the legislative process.

Comments reflect only what was heard from the community and should not be interpreted as official comments from any one organization or combination of organizations. Comments are in no particular order.

1. Comments related to the bill as it was previously structured

Part I - Purposes and Interpretation

The bill should recognize that Great Lakes decisions should be based on the precautionary principle.

Specific language changes (underline= addition; strike through = delete):

1.(2) 2. To protect and restore tributaries, wetlands, beaches, shorelines and other coastal areas of the Great Lakes-St. Lawrence River Basin.

1. (2) 4. To advance science relating to existing and emerging stressors, such as climate change and impacting developments, that improves understanding and management of the Great Lakes-St. Lawrence River Basin.

Part III

The bill should require annual/biennial progress reports.

Part IV – Targets

The GLPA should set strong targets to deal with priority areas.

The bill needs to address toxic substances in the Great Lakes. This section should not be weakened.

The bill needs to improve protection for wetlands.

2. Comments related to scope of any future bill and issues that it should address

Public trust

Public trust (or public rights) principles could be introduced by including:

- A general recognition of the interconnected or single hydrological relationship of the waters of the Ontario portion of the Great Lakes Basin with other portions of the Basin waters, including tributary groundwater and surface waters.
- A general recognition that these waters are held by multiple jurisdictions in common and in public trust.
- A recognition that, along with aboriginal interests, each citizen has a right as a member of the public to use and enjoy the waters and the bed of the Great Lakes and connecting and tributary navigable waters for boating, swimming, navigation and other water dependent public needs.
- A provision that such public right to use and enjoy these waters shall not be subordinated to primary private purposes or otherwise materially interfered with or impaired.

- A provision that any initiatives, decisions and instruments made or proposed under the legislation shall conform to these public rights in navigable waters.

(Integrated) Watershed Management (IWM)

The Ontario Government should announce and pursue a thorough review of integrated watershed management and how to implement and fund it in Ontario. This would include involvement from all Great Lakes ministries (as identified in the Great Lakes Strategy), as well as conservation authorities, municipalities, and drainage superintendents. It would also require a broad definition of water to include watercourses (as defined in multiple ways), waterways, and wetlands. IWM would ensure consistency across various regulations and policies including the Municipal Industrial Strategy for Abatement regulations, the low water response plan, biodiversity policies, cumulative monitoring and public access to data. Recognition of the importance of an integrated watershed approach could also help improve consideration of comprehensive hydrologic connections (e.g., movement of water between surface and ground).

Remove any potential obstacles to implementing IWM

Some of the tools proposed to be created through the bill as previously structured (i.e., geographically focussed initiatives, Guardians Council, shoreline regulations) could detract resources and capacity from other important water management activities, particular implementation of IWM.

Teeth

The legislation must have regulatory teeth to ensure implementation and action towards protection and restoration of the Great Lakes watershed.

Climate change

We should be considering the impacts of climate change into water management. One idea is to set a target for updating floodplain maps, and repairing/restoring riparian zones.

Integration with provincial policy

Other legislation and policy should support any proposed Great Lakes Protection Act, and should not take precedence over it – including the Green Energy and Green Economy Act.

Data management and monitoring

Embedded in legislation and policy should be the recognition of the importance of data and standardized data management protocols. Such principles are important to ensure data is open to public access, sharable, and comparable. This can also promote adoption of community based science to enhance community involvement in water management.

There should be an obligation to produce baseline studies and to conduct regular monitoring that ensures movement towards protection goals. You can't manage what you can't measure. Any approved development activity should be sensitive to groundwater, lakes, and streams. Data and monitoring needs to consider changes caused by climate change.

Public consultation

The legislation should include more opportunities for public participation, such as a public advisory committee.

Agriculture

On-farm practices that improve water quality should be supported. This would ideally include valuing and incentivizing water improving practices on farms, as is exemplified by the ALUS program and what has been done in the Hudson River valley.

We need to address the current trend of industrial farmers using the Drainage Act to turn wetlands into drainage ditches throughout the South-Central Ontario section of the Great Lakes Watershed. This is of special significance to municipalities that have to restore the quality of farm waste water when it reaches the fresh water intakes of the communities.

Nuclear waste

Our nuclear power plants must cease their dumping of tritium into our Great Lakes. Tritium is radioactive hydrogen and is a product of nuclear fission. Once ingested, tritium is carcinogenic, and can cause mutations and teratogenic, deleterious impacts to embryos in the womb. Once tritium is in the water it cannot be filtered out.

Habitat and birds

Given that there are several Important Bird Areas in or abutting the Great Lakes, activities in and around the lakes that could impact birds and their habitats is a great concern.

Land use development

Threats to water quality should be addressed, such as mining that goes below the water table. Link to the Aggregate Resources Act.

Water quantity

We need to pay attention to water quantity as well as quality, including the impact of hydro development on our rivers.

3. Comments related to complementary pieces of legislation and water policy, roles, and responsibilities

Stormwater management

We need stormwater effluent standards that are based on the assimilative capacity of the receiving waters. Currently all we have is a standard requirement to reduce TSS by 80 per cent, without regard for the total loading or sensitivity of the receiving waters.

Right to access and walk our shores

Great Lakes Protection legislation should include the right to access and walk our shores, with the following features:

- Right to walk, without impediment, the shores between the high and low watermarks.

- Access to the shore only via public lands.
- No expropriation of waterfront lands.
- No challenge to private beachfront land ownership.
- No public right to “put down a blanket” on private land.

Conservation authority governance

Conservation authorities would have a critical role to play in the implementation of Great Lakes Protection legislation, and therefore concerns about their authority should be addressed. Governance issues at the board level should be addressed to ensure the strength of the conservation authorities are not undermined by activities and decisions, such as those related to land use. Conservation authority decisions need to have more regulatory teeth. Ideas include: capping the amount of legal support available to each board member, reinstating a provincial auditor, and increasing the capacity of conservation authorities (e.g., increased funding).

4. Comments related to process in developing a new bill and moving it through the legislative process.

Support for the bill

The Great Lakes Protection Act Alliance should build support for proposed legislation with farmers, anglers, and other groups. To assist building support for the bill, it would be good to have a better idea of how the legislation could or would address specific issues that people care about (i.e., land use change in a particular area).

The Alliance may want to invite a representative from northern Ontario to ensure their issues are heard.

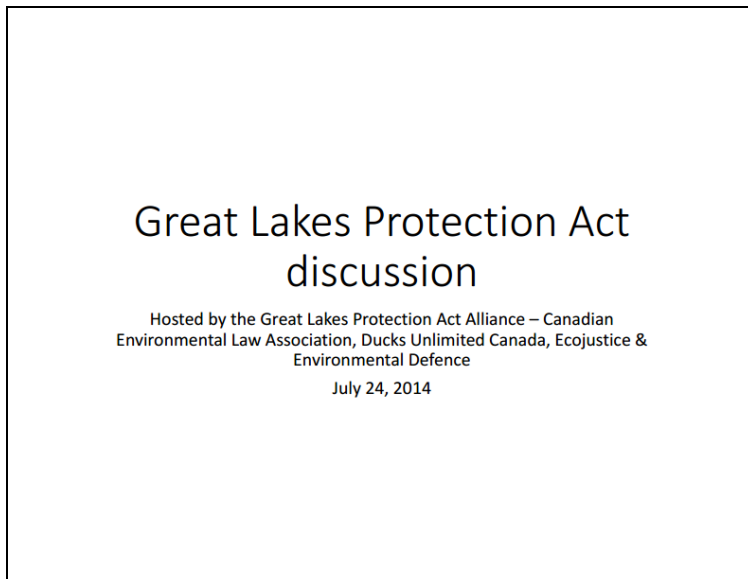
Strengthening the bill

The Alliance should not weaken its position in terms of its list of prioritized amendments submitted to the Standing Committee on Regulations and Private Bills.

ATTACHMENTS

Conference call presentation slides

Double click on image below to open PDF file.



Formal written comments

Below, please find copies of the written submissions that were received in either word or PDF formats. The highlights of these submissions are included in the notes above.

Ontario Shorewalk Association

Submission to Nancy Goucher of Environmental Defence by Garry Skerrett on behalf of the Ontario Shorewalk Association. August 6, 2014.

Shorewalk believes that inclusion of a Right of Passage clause in the Great Lakes Protection Act would add greatly to the public's awareness and support of the act's effectiveness.

Background: The Ontario Shorewalk Association was formed in 2005 as a response to a Michigan high court ruling that called for public walking rights on all 5000 km of that state's shores. We believe we should be able, in Ontario, to have similar access to our Great Lakes shores.

The Great Lakes Right of Passage Act has been presented to the Ontario Legislature 4 times as a private members' bill and received all party support at second reading. In each case time ran out and the bill was unsuccessful.

Supporter for better Great Lakes access is widespread across the province and includes endorsement from the Regional Municipality of Niagara and the Great Lakes and St. Lawrence Cities Initiative which includes most of Ontario's mayors.

Some features of our proposed act:

- Right to walk, without impediment, the shores between the high and low watermarks.
- Access to the shore only via public lands.
- No expropriation of waterfront lands.
- No challenge to private beachfront land ownership.
- No public right to “put down a blanket” on private land.

We believe that this right to access and walk our shores would be a significant inclusion in any Great Lakes Protection Act.

Nottawasaga Steelheaders

Double click image below to open the PDF file.



July 23, 2014

Nancy Goucher
Water Program Manager
Environmental Defence
118 Spadina Avenue,
Suite 300,
Toronto, Ontario,
M5V 2Y6

RE: Conference Call on Great Lakes Protection Act- July 24th

Dear Nancy:

Thank you for allowing our organization to be represented in this important Conference call.

The Nottawasaga Steelheaders, a volunteer group of anglers, conservationists and concerned residents, have been working with The Nottawasaga Valley Conservation Authority and Ministry of Natural Resources to improve, rehabilitate and preserve the integrity of various tributaries of the Nottawasaga River watershed over the past twenty years. Over this time we have removed numerous barriers to fish migration, undertaken countless garbage pick-ups, tree plantings, stream bank stabilizations, cold water delivery projects, spawning ground improvements and commitments to ensure the survival of wild species in this watershed such as wild steelhead.

The Nottawasaga Steelheaders also have been instrumental in working with watershed communities to enhance awareness of critical conservation issues. We have also undertaken various projects in parallel and conjointly with these communities as a partner under the supervision of the Nottawasaga River Conservation Authority and Ministry of Natural Resources to tackle the growing challenges of a rapidly growing population and its impact on important watersheds such as the Nottawasaga River.

We have several key points that need to be addressed and considered in the design of the Great Lakes Protection Act.

1. Waste Water Treatment

Waste water treatment plants and their processing ability are woefully out of whack with the changing number of new chemical compounds and hazardous wastes that are being introduced to the waste water. We are now seeing compounds such as nano-silver, microbeads, artificial sweeteners and pharmaceuticals including estrogens and other compounds. The research and negative impacts are now surfacing and are showing a detrimental trend that may have irreversible results on our ecosystem. The design of the Great Lakes Protection Act should have the foresight and ability both in feasibility and legal strength to manage these compounds use and waste water treatment plant design and subsequent waste water which is introduced into our watersheds and the Great Lakes.

We strongly suggest an aggressive plan to tackle these seriously impacting compounds.

2. Phosphorus Contribution

There are numerous contributors of phosphorus to the Great Lakes, including agriculture (both from run off and airborne sources) as well as waste water treatment plants. As a biologist and angler, I am seeing changes in our rivers and angling and water quality. Higher growth of algae and weed formation from increasing nutrient load including phosphorus is altering and impacting