

Memo to Annex file:

Re: Conversation with David DeLaunay ADM MNR

Friday, March 18, 2005

Re: State of Annex Negotiations

The good news

- The Improvement Standard dropped. Although Improvement still referenced in the preamble it is not part of the Approvals process.
- The preamble is much stronger. Stronger language on Precautionary Principle and climate change, BWTA (uses language suggested by State Department and Canadian Federal government).
- Prohibition on diversions with exceptions short term humanitarian need, ballast water and straddling communities for public water supply only. However the boundaries of straddling communities are not locked in until 5 years after the Annex is implemented (watch those communities grow over the next 15 years). Decision making standard applies.
- Stronger conservation includes best practices for all uses not just new or increased but no target or timetable or assigning of responsibility to determine best practices. At the time of implementation municipal boundaries defined and a conservation program will be required within 5 years.

The bad news

- There is a new exception to diversions. **Near Basin communities in a whole county that contains a straddling community are in.** This seriously messes up the no intrabasin diversion provision as counties containing straddling communities are out. This includes Waukesha, Fort Wayne and Gary Indiana (population 300,000), One other major population center David could not remember and Akron. In Ontario this would mean London and Kitchener /Waterloo would be out and South Simcoe, York Region would be in. These proposals would have to have unanimous consent and go to regional review and to a unanimous vote of the Compact Commission. Ever tougher criteria would be applied to

these even though they would have the lower consumptive use criteria trigger level. These criteria include no reasonable alternative, return flow to watershed water is taken from and a precautionary measure to have regard for cumulative impacts of taking. What this means is that if Aurora put a pipeline into the lake they would have to pass the tougher test as this would be deemed a diversion. However if they put a pipeline into the Moraine they would have to meet the lesser test of a consumptive use So this "tortured hybrid" as David calls it actually promotes taking water from groundwater of rivers and streams where it would likely cause more harm. Not to mention that it is all done to promote sprawl and ignore sound science or understanding of ground and surface water interaction. Of course David points out we would never allow this to happen in Ontario but what happens when other governments are in power and everyone in the US is playing fast and loose with their Great Lakes Boundaries.

- This new scheme strengthens the hand of Illinois. that now has no landmass in the basin. It includes two counties one of them Cook County Population of 6 to 7 Million. This will make it even more difficult for Canadians to try to control the Chicago Diversion if these counties are given new water rights beyond that diversion. At the table Illinois is still trying to get all future increases to that diversion subject to the decree as opposed to Ontario's position that any further increases over levels set out in decree should be subject to regional review.

Over the next few days I will do research on what this actually means in the US for the western basin it is already 21 counties and I still have to figure out PA, Ohio and NYS. I have found a site that also gives me 2003 population stats for these counties.

They want this out to the governors for their month's review by the end of the month. They want the public consultation over by June.