

*Clean Wisconsin • Midwest Environmental Advocates  
Milwaukee Riverkeeper • River Alliance of Wisconsin  
Sixteenth Street Community Health Center  
Waukesha County Environmental Action League  
Wisconsin Wildlife Federation*

June 7, 2011

Ken Johnson  
Russ Rasmussen  
Eric Ebersberger  
Wisconsin Department of Natural Resources  
101 S. Webster Street  
Madison, Wisconsin 53707-7921

Dear Mr. Johnson, Mr. Rasmussen and Mr. Ebersberger,

Thank you for allowing us the opportunity to express the Compact Implementation Coalition (CIC)'s concerns regarding the recent documents submitted on April 27, 2011 to the Department of Natural Resources by the City of Waukesha as part of its application for a diversion of water out of the Lake Michigan basin. As you know, our Coalition is comprised of conservation and environmental organizations focused on ensuring that the Great Lakes Compact is implemented in an effective manner.

In our initial analysis of the City's most recent submission of information, we believe the documents fail to adequately address the request for missing information and analysis raised in the Department's letter to the City of Waukesha on December 2, 2010 detailing deficiencies in its application. It should be emphasized that we are making the distinction between having enough information and analysis that one could reasonably rely on to begin this process and not, at this point, judging the substantive merits of this information.

Specifically,

- **Establishing need for a diversion.** The documents fail to show in a systematic and connected manner that the City has fully explored and exhausted the full range of "other water supply alternatives" in lieu of a diversion. For example, alternatives such as the water supply from western Waukesha County, the extensive new information on the riverbank inducement option that could complement existing water supply sources, or using a combination of different water supply sources to serve Waukesha's needs seem to be dismissed in a cursory manner without providing a thorough analysis as to why these are not viable options.
- **Reasonableness of amount of water needed versus what is requested.** The overall amount of water being requested is based, in part, on a water supply service area which includes towns that apparently do not have a current need for a new water supply and may never need water from the City of Waukesha or Lake Michigan. To include the Towns in a greatly expanded service area does not appear to meet the basic requirements of the Great Lakes Compact governing the amount of water that is

needed. Also, the impact of appropriate water conservation measures has not been taken into consideration in determining the amount of water needed. Apparently neither the Town of Genesee nor the Town of Waukesha have adopted conservation measures that would be required if they were to be included in an application for a diversion. Given these fundamental gaps in the information and analysis generated to date, it would appear that the overall amount of water that the City of Waukesha “reasonably needs” is far from settled.

- **The source of water supply.** The Waukesha Water Utility continues to make the point that it can obtain water from Lake Michigan through at least three different communities. But our understanding is that the preferred water supply source, the City of Milwaukee, has not even begun discussions with Waukesha about water supply. And little is known whether, if at all, discussions with the City of Racine or City of Oak Creek have occurred.

The source of the water, where the water is drawn from, and how it is transmitted to Waukesha, has significant economic and environmental considerations that need to be taken into account, not merely speculated upon, even if all the conditions of a sale are not yet agreed to. Some degree of likelihood of a successful negotiation would seem to be in order. The recent letter from the City of Milwaukee to the City of Waukesha (May 13, 2011) with no response from Waukesha, would seem to raise questions about that. For our state and its citizens to be drawn into this complicated and expensive process in the “hope” that one community will supply the water, while also dragging seven other states and two Canadian provinces into such a speculative venture is neither reasonable nor realistic.

- **Return flow.** The documents do not explore return flow options for water supply sources other than from the City of Milwaukee (with proposed return flow through Underwood Creek.) Even if one were to assume that the City of Milwaukee will supply water to Waukesha, it is not clear that the full cost and environmental impacts for various return flow options just for this one water supply source have been adequately considered.

We would point out as well for other sources of water supply (e.g. Racine or Oak Creek) there has not been an analysis of where the water will be returned. Merely indicating that if one of these communities supplied the water, Waukesha would return it through Underwood Creek, without considering other return flow alternatives and impacts, does not appear on its face to meet the requirements that diverted water be returned as close to the supply source as practical.

In addition, we would note that Waukesha raised an unprecedented approach for stopping return flow during periods of high water levels in a tributary stream to Lake Michigan. Far more information would need to be provided with such an approach, given that it in all likelihood would undermine Great Lakes Compact provisions against co-mingling while potentially creating a precedent that would establish diversions with no return flow.

In earlier comments we have noted the failure of Waukesha to meaningfully engage the general public, and, specifically all the affected communities, in a useful discussion of its proposed diversion. The public needs to have adequate notice and the opportunity for full and open discussion on these matters, and this has not happened to date.

Given the inadequate response by Waukesha to these critical issues that were raised by the Department in its letter of December 2, 2010, we believe that the City of Waukesha's application for a diversion of Lake Michigan water remains incomplete and that the Department should not begin the review and EIS process until these key issues are adequately addressed.

Thank you again for your willingness to keep the Compact Implementation Coalition informed on all communications, written and verbal, with the City of Waukesha, the Waukesha Water Utility or their consultants related to this potential precedent-setting request for an exception to the ban on diversion of water out of the Great Lakes Basin.

Very truly yours,

**Compact Implementation Coalition**

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**Other organizations:**

Karen Hobbs, Natural Resources Defense Council  
Jared Teutsch, Alliance for Great Lakes

Cc: Secretary Cathy Stepp, Department of Natural Resources  
Mayor Jeff Scrima, City of Waukesha  
Paul Ybarra, Common Council President, City of Waukesha  
Mayor Tom Barrett, City of Milwaukee  
Willie Hines, Common Council President, City of Milwaukee  
Sharon Leair, Chairman, Town of Genesee  
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