



ecojustice



environmental
defence
INSPIRING CHANGE



July 31, 2012

Wendy Ren
Manager
Ministry of the Environment
Integrated Environmental Policy Division
Land and Water Policy Branch
Land Use Policy
135 St. Clair Avenue West
Floor 6
Toronto, ON M4V 1P5
Phone: (416) 314-7201
Fax: (416) 326-0461

COMMENTS OF THE GREAT LAKES PROTECTION ACT ALLIANCE AND UNDERSIGNED GROUPS

REGARDING PROPOSAL FOR AN ACT: Bill 100, AN ACT TO PROTECT AND RESTORE THE GREAT LAKES-ST. LAWRENCE RIVER BASIN (FIRST READING: JUNE 6, 2012)

EBR Registry Number: 011-6461

Posted to Registry June 6, 2012

Comments Due: August 7, 2012

Dear Ms. Ren:

The Great Lakes Protection Act Alliance – Canadian Environmental Law Association, Ecojustice, Environmental Defence, Ducks Unlimited Canada, Great Lakes United, and Sierra Club Ontario – and the undersigned groups are pleased to provide comments with respect to Bill 100 – the proposed Great Lakes Protection Act. This legislation, introduced in the Ontario legislature on June 6, 2012, is an important addition of new legal and policy tools to safeguard, restore and protect the Ontario portion of the Great Lakes-St. Lawrence River (GL-SLR) Basin. A companion submission by the Alliance and many of the undersigned groups in response to the Environmental Registry notice regarding the first Draft Strategy (EBR Registry Number: 011-6418) will be separately submitted and, therefore, this submission on Bill 100 does not substantively provide input as to that Draft Strategy.

Below, we review the draft legislation in detail, and provide our comments and suggestions in respect of the Preamble and each Part of Bill 100. In our review, we have referenced the “Statement of Expectations” and the accompanying “Legislative Drafting Notes” that the Alliance provided to MPPs and government in advance of the introduction of Bill 100. We hope those documents were of assistance and we will continue to reference them as we proceed through the legislative process and provide input on Bill 100. We have also benefited from technical briefings provided to the Alliance by the Ministry of the Environment and from the feedback of a large group of Ontario ENGOs and members of the public who responded to our requests for input and/or joined us in a teleconference we hosted on June 28, 2012. That teleconference was conducted in order to provide a brief overview of Bill 100 and to solicit comments to assist in preparing this submission.

Bill 100, the proposed Great Lakes Protection Act, consists of a Preamble and Parts I-VIII. The format of these comments consists of an overview of the Preamble and each Part of Bill 100; a chart comparing Bill 100 as introduced to relevant portions of our Statement of Expectations and Legislative Drafting Notes; and comments relating to that Preamble/Part of Bill 100. All recommendations contained in this submission are collected at the end of the document as a summary of recommendations, for convenience. We reserve the right to make updated, more specific recommendations as Bill 100 proceeds through the legislative process. We will deal with each part in turn below.

Preamble

Overview: The Preamble identifies the Great Lakes-St. Lawrence River Basin as “the largest freshwater ecosystem on earth” and “a critical resource for Ontarians”. It also identifies the benefits to Ontarians, including some specifics related to health, well-being, spiritual relationships, biodiversity and economy. It identifies the threats (in general terms) and acknowledges that, although there are efforts to protect and restore the ecological health of the Basin, more work needs to be done to achieve the goal of drinkable, swimmable, fishable waters. Finally, the stake of all Ontarians is identified, and the “Government of Ontario seeks to involve individuals and communities” in the protection and restoration of the ecological health of the Basin.

Comparison to Alliance’s Statement of Expectations Drafting Notes:

DRAFTING NOTES OBJECTIVES OF THE ACT / WHAT IT WILL ACHIEVE:	RELEVANT PROVISIONS IN BILL 100
Connect Ontarians with the Great Lakes	Preamble, para 4 Purposes, s.1(1)(b)
Recognize the unique contribution – past, present and future – of the Lakes to Ontario’s well being and prosperity and the major asset it is	Preamble
Protect human health and the Great Lakes ecosystem, present and future, and alleviate current, ongoing and future threats to the integrity of the Great Lakes ecosystem	Preamble Purposes, s.1(1)(a) and s. 1(1)

DRAFTING NOTES OBJECTIVES OF THE ACT / WHAT IT WILL ACHIEVE:	RELEVANT PROVISIONS IN BILL 100
Provide a means of integrating diverse decisions, planning and activities so as to avoid new impacts and promote restoration and protection of the Great Lakes and the Great Lakes Basin ecosystem; as well as to address anticipated impacts such as climate change and population growth	Enables geographically-focussed initiatives, which must contain at least one policy or recommendation to create a regulation (s.19); certain policies within initiatives can be designated, in which case other decisions/actions (including those made under the <i>Planning Act</i> and decisions regarding prescribed instruments) are to “conform with” the designated policy, otherwise, other decisions are to “have regard” for policies in initiatives (s.20); conflicts between designated policies and other government policies/plans/Acts are to be resolved in favour of the “greatest protection to the ecological health” of the GL-SLR Basin (ss.20, 35); obligation for a municipality to bring official plan into conformity (s.21); mechanism to resolve official plan non-conformity (s.22); mechanism to bring instruments into conformity (s.23); mechanism for amending instruments to bring into conformity (s.24)
Provide for Ontario leadership in the Great Lakes domestic and bi-national contexts	Great Lakes agreements are to be considered in establishment/review of Strategy, establishment of targets, and development/amendment of an initiative (s.31)

Comments on Preamble

The undersigned signatories support the Preamble and the direction it provides for the proposed Great Lakes Protection Act. The purposes and interpretation will be dealt with further below. Substantive provisions that are aimed at achieving leadership and integration are also dealt with below in the relevant parts of Bill 100.

Part I – Purposes and Interpretation (Sections 1 to 3)

Overview:

Bill 100’s Purposes and Interpretation sections state that there are two purposes of the proposed Act: “to protect and restore the ecological health” of the Basin, and “to create opportunities for individuals and communities to become involved in the protection and restoration of the ecological health” of the Basin. Clarification of the purposes indicates that the purposes include: protection of human health and well being; protection and restoration of wetlands, beaches, coastal areas; protection and restoration of natural habitats and biodiversity; advancement of science associated with existing and emerging

stressors (particularly identifying climate change); and enrichment of the quality of life in communities of the Basin by supporting “environmentally sustainable economic opportunities”, innovation, and the “environmentally sustainable use of natural resources”. Interpretation includes a “non-derogation” clause – that nothing in the proposed Act is to be construed so as to “abrogate or derogate” from protection of aboriginal and treaty rights. “Great Lakes ministers” is defined as the ministers responsible for developing and implementing the Strategy. “Great Lakes-St. Lawrence River Basin” is defined as “the part of Ontario, the water of which drains into the Great Lakes or the St. Lawrence River, including the parts of the Great Lakes and of the St. Lawrence River that are within Ontario” (s.3(1)(a)) or another area as defined in a regulation. The Minister responsible for the administration of the proposed Act is the Minister of the Environment, unless another Minister is assigned responsibility under the *Executive Council Act*.

Comparison to Alliance’s Statement of Expectations Drafting Notes:

See the sections discussed above in the Preamble dealing with section 1 as well as the following in relation to sections 1, 2 and 3 of Bill 100.

DRAFTING NOTES OBJECTIVES OF THE ACT/WHAT IT WILL ACHIEVE:	RELEVANT PROVISIONS IN BILL 100
Designate the Minister responsible for the Act/Great Lakes to pursue the Great Lakes Protection Act purposes and to align inter-ministerial actions affecting the Great Lakes	Minister of the Environment is responsible for administration of the proposed Act (s.1(2)); obligated in certain circumstances (prior to establishing the Strategy and during review of same (s.5); prior to establishing targets (s.8); prior to directing a public body to develop a proposal for an initiative (s.9) to consult with the other <i>Great Lakes ministers</i> (defined in Bill 100 as those involved in developing the Great Lakes Strategy) ¹
Set out the purposes of the Act (see above) to guide its future implementation	1(1) The purposes of this Act are, (a) to protect and restore the ecological health of the Great Lakes-St. Lawrence River Basin; and (b) to create opportunities for individuals and communities to become involved in the protection and restoration of the ecological health of the Great Lakes-St. Lawrence River Basin. 1(2) The purposes set out in subsection (1) include the following: 1. To protect human health and well being through the protection and restoration of the

¹ Ministers of Environment, Natural Resources, Agriculture, Food and Rural Affairs, Infrastructure, Aboriginal Affairs, Economic Development and Innovation, Tourism, Culture and Sport, Transportation, and Intergovernmental Affairs (see page 30 of Draft Strategy)

DRAFTING NOTES OBJECTIVES OF THE ACT/WHAT IT WILL ACHIEVE:	RELEVANT PROVISIONS IN BILL 100
	<p>ecological health of the Great Lakes-St. Lawrence River Basin.</p> <p>2. To protect and restore wetlands and beaches and other coastal areas of the Great Lakes-St. Lawrence River Basin.</p> <p>3. To protect and restore the natural habitats and biodiversity of the Great Lakes-St. Lawrence River Basin.</p> <p>4. To advance science relating to existing and emerging stressors, such as climate change, that improves understanding and management of the Great Lakes-St. Lawrence River Basin.</p> <p>5. To enrich the quality of life in communities in the Great Lakes-St. Lawrence River Basin through support of environmentally sustainable economic opportunities, innovation and environmentally sustainable use of natural resources.</p>
<p>Provide a set of principles to guide Great Lakes related decision making & input in all fora – principles such as science based priority setting and decisions; prevention of harm; citizen involvement; and application of the precautionary principle in existing and future Great Lakes responsibilities</p>	<p>Principles are not outlined</p>
<p>Provide a definition of the “Great Lakes” as “inclusive of the Great Lakes -St. Lawrence River watershed, inclusive of all Ontario waters draining into the Great Lakes or the St. Lawrence River and the lands surrounding them”</p>	<p>“Great Lakes-St. Lawrence River Basin” is defined as “the part of Ontario, the water of which drains into the Great Lakes or the St. Lawrence River, including the parts of the Great Lakes and of the St. Lawrence River that are within Ontario” (s.3(1)(a)) or another area as defined in a regulation (s.3(1)(b)).</p>

Comments on Part I:

The undersigned strongly support the purposes statement in subsection 1(1) as well as the inclusive list contained in subsection 1(2). The second purpose statement in subsection 1(1) would be strengthened if “organizations” were added to the list of those that are enabled to become involved in protection and restoration of ecological health; specifically, paragraph (b) should be amended to read “to create opportunities for individuals, organizations and communities to become involved in the protection and restoration of the ecological health of the Great Lakes-St. Lawrence River Basin.” Also, the non-exclusive list of examples in subsection 1(2) would be strengthened if it included specific reference to reduction and elimination of toxic chemicals in the Basin, in particular air borne pollutants including those that have cumulative impacts and including persistent organic pollutants.

The undersigned also strongly support section 2, the non-derogation clause which reiterates the intent and law whereby nothing in the proposed Act would be construed so as to abrogate or derogate from the protection provided under section 35 of the *Constitution Act* of existing aboriginal and treaty rights. Inclusion of this provision in the proposed Act is important to reinforce this intent and to avoid any subsequent arguments that any implication could be drawn to the contrary.

The undersigned are also supportive of the Interpretation section of the proposed Act, section 3 (definitions). In particular, it is important that there are specific responsibilities for a single, accountable ministry (the Minister of the Environment) in the proposed Act, as well as recognition of the interrelated responsibilities of various ministries (the proposed Act defines several ministers as “Great Lakes ministers”, i.e. all of those involved in the development and implementation of the Great Lakes Strategy). The latter is particularly important because so many of the actions, programs and decisions across government are integral to the health of the Basin and its protection.

The undersigned strongly support the definition of the Great Lakes-St. Lawrence River Basin.

The undersigned recommend the addition of principles to guide decision making in the Basin. Such principles must guide Great Lakes related decision making and input in all fora – principles such as science based priority setting and decisions; prevention of harm; citizen involvement; collaboration and integration; and application of the precautionary principle in existing and future Great Lakes responsibilities. These principles are already entrenched in the *Environmental Bill of Rights* and/or the Ministry of the Environment’s Statement of Environmental Values, as a result of which there should be no difficulty expressly committing to these same principles in Bill 100.

Recommendation 1: Add “organizations” to clause 1(1)(b), such that it reads: “to create opportunities for individuals, organizations and communities to become involved in the protection and restoration of the ecological health of the Great Lakes-St. Lawrence River Basin.” Add reduction and elimination of toxic chemicals in the Basin, in particular air borne pollutants including those that have cumulative impacts and including persistent organic pollutants to the non-exclusive list in subsection 1(2).

Recommendation 2: Add principles to Bill 100 to guide decision making in the Basin. Such principles must guide Great Lakes related decision making and input under this Act and other legislation that contains Great Lakes provisions, as well as guide Ontario’s involvement and decision making in Great Lakes Agreements with other jurisdictions. These principles include science based priority setting and decisions; prevention of harm; restoration, citizen involvement; collaboration and integration; and application of the precautionary principle including taking account of uncertainty in existing and future Great Lakes responsibilities.

Part II – Great Lakes Guardians’ Council (Section 4)

Overview

In Part II, the Great Lakes Guardians’ Council is established, with the first meeting to be held before the first anniversary of subsection 4(1) coming into force. After that, Council meetings are to be held “from time to time” at the Minister’s discretion. Invited to Council will be the other Great Lakes ministers and “representatives of the interests of” municipalities, First Nations and Métis communities, environmental organizations, scientific community, industrial, agricultural, recreational and tourism sectors. The Great Lakes Guardians’ Council is to be used as a forum for identifying priorities and funding mechanisms, to facilitate information sharing, and to obtain input on the various tools in the proposed Act (such as targets, initiatives) and on inter-jurisdictional agreements.

Comparison to Alliance’s Statement of Expectations Drafting Notes:

DRAFTING NOTES OBJECTIVES OF THE ACT/WHAT IT WILL ACHIEVE:	RELEVANT PROVISIONS IN BILL 100
Create and empower a Great Lakes Science Committee to provide advice to the Minister	Establishes a Great Lakes Guardians’ Council, which is to be used as a forum for identifying priorities and funding mechanisms, facilitate information sharing, and obtain input on the various tools in the Act (targets, initiatives, and inter-jurisdictional agreements); “membership” will include Great Lakes ministers and “representatives of the interests of” municipalities, First Nations and Métis communities, environmental organizations, scientific community, industrial, agricultural, recreational and tourism sectors (s.4)

Comments on Part II:

The undersigned support the establishment of a Great Lakes Guardians’ Council; however, we suggest that there ought to be two advisory/working groups established in Part II, rather than one. One of them should consist of longer term on-going members including specialists, scientists and Great Lakes stakeholders with commitment, continuity, and multi-issue perspectives (we will refer to this as an “enhanced” Great Lakes Guardians’ Council). This group should advise on overall priorities, provide the Minister with advice on many of the matters specified in the proposed Act, including reviews of the Strategy, amendments to the Strategy between reviews, establishment of targets under the proposed Act, advice as to prioritization of issues, government accountability and public involvement mechanisms, and advice as to areas that merit geographically-focussed initiatives. It should operate with terms of reference and procedures including regular meetings with specified minimum frequencies. The other group should operate in the informal and ad hoc manner as currently drafted in this Part in terms of being assembled by the Minister on an issue-by-issue basis for additional advice. We also recommend

that Conservation Authorities should be included on the Great Lakes Guardians' Council, recognizing their significant role in watershed planning, shoreline management and protection, stewardship and ecological monitoring.

Recommendation 3: Two groups should be established in Part II, rather than one. One of them should consist of longer term members including specialists, scientists and Great Lakes stakeholders with commitment and continuity. It should operate with terms of reference and procedures including regular meetings with specified minimum frequencies. The other group should operate in the informal and ad hoc manner as currently drafted in this Part in terms of being assembled by the Minister issue by issue for additional advice. Both groups should include watershed based perspectives.

Recommendation 4: Add “conservation authorities” to list in clause 4(3)(d), such that it reads: “representatives of the interests of conservation authorities, environmental organizations, the scientific community and ...”

Part III – Ontario’s Great Lakes Strategy (Sections 5, 6)

Overview:

Ontario’s Great Lakes Strategy is to be established, on or before the date subsection 5(1) comes into force, and after consultation with the Great Lakes ministers (and anyone else the Minister considers “advisable”). A review is mandated every nine years. Revisions to the Strategy can be made between reviews, at the Minister’s discretion. Contents of the Strategy include: current environmental conditions, goals, summary of actions, and priorities. The Minister is mandated to, after consulting the Great Lakes ministers, prepare a progress report “from time to time”.

Comparison to Alliance’s Statement of Expectations Drafting Notes:

DRAFTING NOTES OBJECTIVES OF THE ACT/WHAT IT WILL ACHIEVE:	RELEVANT PROVISIONS IN BILL 100
Provide for the setting of goals, with timelines, for the Great Lakes and their watersheds	Enables Strategy (Part III), targets (Part IV) and initiatives (Part V); with no timelines. First draft Strategy (posted to the Environmental Registry for comment simultaneously with the posting of Bill 100 for comment) contains proposed Great Lakes Goals including <ul style="list-style-type: none"> • Empowering communities • Protecting water • Improving wetlands, beaches and coastal areas • Protecting habitats and species • Enhancing understanding and adaptation

DRAFTING NOTES OBJECTIVES OF THE ACT/WHAT IT WILL ACHIEVE:	RELEVANT PROVISIONS IN BILL 100
	<ul style="list-style-type: none"> • Ensuring environmentally sustainable economic opportunities and innovation
Provide program responsibility to the Minister for promotion, stewardship, and other aspects of engaging and connecting all Great Lakes Basin residents to the Lakes	Enables Strategy (Part III); Schedule 3 (Policies with No Legal Effect) includes several policies such as co-ordination, resource management, stewardship programs, pilot programs, best management practices, outreach and education programs, research and others; however Minister is not specifically designated this responsibility.

Comments on Part III

The undersigned submit that in the proposed Act, the Minister, working together with the GL ministers, should be specifically required to pursue the achievement of the Vision and Goals established in the Strategy. The proposed Act should require that ultimate responsibility reside with the Minister to explicitly report as to the achievement of the Vision and Goals. As will be noted later in these comments, the proposed Act should specify that the Goals of the Strategy should be measured against explicit targets, both qualitative and quantitative with associated timelines. Where goals and targets are ambitious, interim yardsticks should be specified.

In terms of promotion and stewardship activities, the Minister should specifically be given responsibility to ensure such activities are occurring, in addition to supporting the efforts of others in the Basin.

Recommendation 5: An addition to Part III should specifically require that all the Great Lakes ministers pursue the achievement of the Vision and Goals established in the Strategy.

Recommendation 6: An addition to Part III should specifically require that the Minister is responsible for pursuing the achievement of the Vision and Goals established in the Strategy.

Recommendation 7: An addition to Part III should require that the Minister of the Environment establish metrics to explicitly report against achievements of the Vision and Goals and report on those metrics on a defined frequency, such as every 3, 4 or 5 years.

Recommendation 8: An addition to Part III should give the Minister the responsibility to ensure that the Strategy takes into account and builds on previous activities intended to protect and restore the ecological health of the Basin, including education and outreach activities.

Part IV – Targets (Section 8)

Overview

In Part IV, target setting is enabled. The Minister of the Environment has discretion to set targets, after consulting with Great Lakes ministers. Targets can be qualitative or quantitative, can be specified for a particular area within the Basin, and can include the manner in which the public bodies with jurisdiction in that area are to take them into consideration. The Minister can direct a public body to provide information, propose targets, and propose how to work together with other public bodies to achieve quantitative targets. A Minister’s direction is binding on a public body (see section 32: if directed by the Minister, the public body “shall comply” with the direction).

Comparison to Alliance’s Statement of Expectations Drafting Notes:

DRAFTING NOTES OBJECTIVES OF THE ACT/WHAT IT WILL ACHIEVE:	RELEVANT PROVISIONS IN BILL 100
Provide requirements for the setting of science-based targets that will protect the Great Lakes, in consultation with the public, for the Great Lakes Basin as applicable at near-shore and in open lakes and within watersheds/sub-watersheds and on other ecologically relevant scales. To meet those targets and measures they shall be incorporated into integrated watershed management approaches upstream throughout the Basin.	Targets enabled (see Part IV). The Minister may set targets after specified consultation. The Minister may also request a public body to propose a target and take other actions relating to the development or achievement of the target as set out in section 8 (2). Targets may be set on their own, or in conjunction with geographically-focussed initiatives (see Parts V and VI). A target may be apportioned within the area to which it applies. If targets are proposed on their own, they are not binding. If targets are included in geographically-focussed initiatives, they may become binding depending upon which policies from Schedule 1 are designated for the initiative. Geographically-focussed initiatives are provided in Parts V and VI.

Comments on Part IV

The undersigned submit that the setting of targets should not be discretionary. While the Minister should be left with discretion as to which targets to set, and as to the setting of those targets, the Minister should be explicitly required to set targets. We are concerned that if no targets were ever set, it may be difficult to ensure that the purposes of the proposed Act are achieved. Targets that are set by the Minister should be science-based, consistent with the Vision and Goals established for the Basin, protective of the Basin, and applicable to a range of decision makers. The latter point is further achieved by the geographically focussed initiatives tool provided for in Bill 100 and discussed below. In

addition, an enhanced Great Lakes Guardians’ Council (as suggested above) is an appropriate forum to give the Minister advice on the setting of targets.

Recommendation 9: Part IV should be amended to ensure that the Minister is mandated to set targets.

Part V – Proposals for Initiatives (Sections 9 – 14)

Overview

The Minister may direct the development of a proposal for an initiative. An initiative is “geographically-focussed” and is meant to achieve “one or more purposes” of the proposed Act within the specified area. Before issuing a direction to develop a proposal, the Minister is required to consult with the Great Lakes ministers, First Nations and Métis communities, and public bodies. The Minister must also “table” the direction at the Great Lakes Guardians’ Council. For the purposes of the consultation, the Minister creates a summary of the direction which states (at a minimum) the area to which it applies, the public bodies that are to develop the proposal, and issues that are to be addressed. After considering any feedback, the Minister creates a direction to develop a proposal that includes the area to which it applies, the public bodies that are to develop the proposal, issues that are to be addressed, steps the public bodies are to take to develop the proposal, rules by which the development of the proposal is to be conducted, and a deadline. Proposals for an initiative are to contain (at a minimum): a description of the proposed area to which the initiative would apply, issues to be addressed, objectives to be achieved, types of policies that would be set out to achieve the objectives, public body/bodies responsible, proposed consultation, a work plan for the development of the initiative, and the date by which the draft initiative will be submitted. Once submitted, the Minister will decide to (i) direct the public body/bodies to make amendments, (ii) refer the proposal to the Lieutenant Governor in Council (LGinC) with recommendations, or (iii) not refer the proposal to LGinC. LGinC will either approve the proposal or decide not to approve the proposal. The Minister and the LGinC can make amendments to the proposal in specified circumstances.

Comparison to Alliance’s Statement of Expectations Drafting Notes:

DRAFTING NOTES OBJECTIVES OF THE ACT/WHAT IT WILL ACHIEVE:	RELEVANT PROVISIONS IN BILL 100
Designate the Minister responsible for the Act/Great Lakes to pursue the Great Lakes Protection Act purposes and to align inter-ministerial actions affecting the Great Lakes	Minister of the Environment is responsible for administration of the Act (s.1(2)); obligated in certain circumstances (prior to establishing the Strategy and during review of same (s.5); prior to establishing targets (s.8); prior to directing a public body to develop a proposal for an initiative (s.9)) to consult with the other <i>Great Lakes ministers</i> (defined in Bill 100 as those involved in developing the Great Lakes

DRAFTING NOTES OBJECTIVES OF THE ACT/WHAT IT WILL ACHIEVE:	RELEVANT PROVISIONS IN BILL 100
	Strategy)
Establish integrated watershed management mechanisms across the Basin (with a range of tools available for the future from incentive based to more prescriptive options) in particular aimed at integrated planning and decision making as follows:	
<ul style="list-style-type: none"> • Provide for open and flexible approaches; enabling and authorizing integration of decisions at watershed / regional scale 	Targets (Part IV) and initiatives (Part V) are set up to be flexible and geographically specific; although policies or recommendations regarding needed regulations are mandated within an initiative, options as to which tools to use are flexible; if a policy is “designated” it may supersede other policies, instruments. Schedules 1, 2 and 3 provide a range of tools.
<ul style="list-style-type: none"> • Regional (watershed) based – need not be same approaches everywhere 	Initiatives are geographically specific and tools are to be chosen to address issues that are related to that area
<ul style="list-style-type: none"> • Ensure multi-sectoral participation in integrated watershed management 	Great Lakes ministers are consulted regarding targets, proposals, initiatives; as are other interests

Comments on Part V:

The undersigned support the requirement to consult with other Great Lakes ministers before the Minister of the Environment asks a public body to develop a proposal for an initiative. Furthermore, pursuant to section 27 of the proposed Act, the Minister shall post the proposed direction on the Environmental Registry (established pursuant to the *Environmental Bill of Rights*, a.k.a. the “EBR Registry”), and consult with representatives of the interests of the public bodies in the geographic area, representatives of the interests of First Nations and Métis communities with historic relationships to that area, and such other persons as considered advisable. The process of consultation at this stage is essential to ensure that all of those concerned are able to provide input and are well informed about the potential direction. Furthermore, broadly based ‘buy-in’ of geographically-focussed initiatives will be essential to their success and this must start at the very beginning of their development.

The undersigned are also supportive of the approach by which initiatives are to be geographically specific; as we have previously submitted, solutions to the pressing issues in the Basin are not ‘one size fits all’ and different sets of actors, different sets of tools, and different scales of action are required in order to properly respond to them.

However, what is important is that there must be a plan to achieve outcomes associated with any initiatives. This should be more clearly specified in the proposed Act, in both Parts V and VI. Further, it is important to establish early on in the process how a proposal for an initiative will be resourced. As well, given that the process envisioned by Part V and Part VI might take some time, there should be a

standing mechanism to provide information to the public about the status of the particular proposal for an initiative (and subsequently for the particular initiative).

Recommendation 10: Add to Parts V (section 11) and VI (section 19) a requirement that initiatives include a plan for implementation.

Recommendation 11: A proposal for an initiative should include a statement of the funding required for the proposal and any proposed funding partnerships, along with confirmation from funding partners of what they will contribute to the proposal.

Recommendation 12: Add to Parts V and VI a requirement that the Minister maintain an internet posting with an up-to-date status of all proposals for initiatives and development of initiatives at all stages.

Part VI – Initiatives (Sections 15 – 26)

Overview

Once the proposal for an initiative is approved by the LGinC, the Minister can direct the development of an initiative. When a draft initiative is submitted to the Minister, the Minister can decide to (i) direct the public body/bodies to make amendments; (ii) appoint hearing officer(s) to conduct hearings; (iii) refer the draft initiative to LGinC with recommendations (of Minister and/or hearing officer(s)); not refer the draft initiative to the LGinC. LGinC will either approve the draft initiative or decide not to approve the draft initiative.

An initiative must contain at least one policy (of the type listed) or recommendation for a shore-line regulation (to be made under section 26). An initiative must also contain (at a minimum): a description of the area to which the initiative will apply and current environmental conditions, issues/activities to be addressed, objectives to be achieved, principles and priorities that guided the development of the initiative, priorities that should guide implementation of the initiative, methods that will be used to assess whether objectives are being achieved, strategy for financing, and the date on which the initiative will take effect (which is the later of the date on which the notice of approval is published on the Environmental Registry and the date specified).

An initiative may also identify one or more public bodies or persons as responsible for implementing a policy under an initiative. The effect of an initiative on municipal planning decisions is that the decision must conform with “designated policies” and otherwise have regard for policies; a designated policy prevails over a conflicting official plan or zoning by-law; and, if a designated policy conflicts with a policy in the PPS, Greenbelt Plan, Niagara Escarpment Plan, Oak Ridges Moraine Conservation Plan, growth plans under *Places to Grow Act*, or another prescribed policy, the provision that provides the “greatest protection to the ecological health of the Great Lakes-St. Lawrence River Basin” prevails.

Designated polices are of the type listed (in Schedule 1) AND have been specifically identified within the initiative by reference to the section which it is given effect (e.g. sections 20-24). Municipal actions are to conform to designated policies. When a public body comments, makes submissions, or provides advice on a matter to which an initiative applies, such as a municipal planning decision or a decision regarding a prescribed instrument, their advice must conform to designated policies and have regard for other policies. Official plans are to be brought into conformity with designated policies. The Minister of the Environment can assess non-conformity and advise municipalities regarding the particulars and invite proposals for resolving the non-conformity within a particular timeline. The Minister of the Environment and the Minister of Municipal Affairs and Housing can make joint orders to amend non-conforming municipal actions in cases of unresolved non-conformity. A prescribed instrument shall be brought into conformity with designated policies, unless otherwise directed by regulation. The Minister of the Environment has discretion to request amendments to prescribed instruments in cases of non-conformity.

If a public body/bodies is/are identified as being responsible for monitoring, reporting, and/or reviewing in relation to polices listed in Schedule 2, they must comply with those obligations.

The LGinC is enabled to make binding regulations regarding shoreline protection (section 26). Specifically, in areas where there is an initiative and the area is also close to a shoreline, tributary, or wetlands, regulations can prohibit activities and/or require activities to happen (e.g. both prohibit and mandate activities near wetlands that will restore the ecological health of the wetlands). Such regulations are binding in the sense that contravention is an offence that carries monetary penalties. Conflicts between these regulations and any provisions under other regulations, by-laws, or instruments are to be resolved such that the provision that provides the “greatest protection to the ecological health of the Great Lakes-St. Lawrence River Basin” prevails.

Comparison to Alliance’s Statement of Expectations Drafting Notes

DRAFTING NOTES OBJECTIVES OF THE ACT/WHAT IT WILL ACHIEVE:	RELEVANT PROVISIONS IN BILL 100
Provide a means of integrating diverse decisions, planning and activities so as to avoid new impacts and promote restoration and protection of the Great Lakes and the Great Lakes Basin ecosystem; as well as to address anticipated impacts such as climate change and population growth	Enables initiatives, which must contain at least one policy or recommendation to create a regulation (s.19); certain policies within initiatives can be designated, in which case other decisions/actions (including those made under the <i>Planning Act</i> and decisions regarding prescribed instruments) are to “conform with” the designated policy, otherwise, other decisions are to “have regard” for policies in Initiatives (s.20); conflicts between designated policies and other government policies/plans/Acts are to be resolved in favour of the “greatest protection to the ecological health” of the GL-SLR Basin

DRAFTING NOTES OBJECTIVES OF THE ACT/WHAT IT WILL ACHIEVE:	RELEVANT PROVISIONS IN BILL 100
	(ss.20, 35); obligation for a municipality to bring official plan into conformity (s.21); mechanism to resolve official plan non-conformity (s.22); mechanism to bring instruments into conformity (s.23); mechanism for amending instruments to bring into conformity (s.24)
Integration with and harmonization of existing policies for water	Explains <i>Lake Simcoe Protection Act</i> integration directly (s.26); numerous references for resolving conflicts in favour of the “greatest protection to the ecological health of the Great Lakes-St. Lawrence River Basin”.
Establish integrated watershed management mechanisms across the Basin (with a range of tools available for the future from incentive based to more prescriptive options) in particular aimed at integrated planning and decision making as follows:	
<ul style="list-style-type: none"> • Provide for open and flexible approaches; enabling and authorizing integration of decisions at watershed / regional scale 	Targets (Part IV) and initiatives (Part V) are set up to be flexible and geographically specific; although policies or recommendations regarding needed regulations are mandated within an initiative, options for which tools to use is flexible; if a policy is “designated” it may supersede other policies, instruments. Schedules 1, 2 and 3 provide a full range of tools.
<ul style="list-style-type: none"> • Regional (watershed) based – need not be same approaches everywhere 	Initiatives are geographically specific and tools are to be chosen to address issues that are related to that area
<ul style="list-style-type: none"> • Ensure multi-sectoral participation in integrated watershed management 	Great Lakes ministers are consulted regarding targets, proposals, initiatives; as are other interests
<ul style="list-style-type: none"> • Examples for implementation – 	
<ul style="list-style-type: none"> ○ Municipalities support and have regard for watershed / sub-watershed management targets in planning decisions, including infrastructure and land use (e.g. application of low impact development and green infrastructure techniques); 	Municipalities will have to conform to designated policies and have regard for other policies in approved initiatives
<ul style="list-style-type: none"> ○ MOE Directors have regard for watershed / sub-watershed management targets in Certificates of Approval and Permit to 	Prescribed instruments will have to conform to designated policies and have regard for other policies in approved

DRAFTING NOTES OBJECTIVES OF THE ACT/WHAT IT WILL ACHIEVE:	RELEVANT PROVISIONS IN BILL 100
Take Water processes; and	initiatives
<ul style="list-style-type: none"> ○ Integration of the Minister’s office with state and municipal governments and the International Joint Commission on issues affecting Great Lakes levels in order to protect and restore the natural fluctuation of water levels for the protection of wetlands and other ecosystem functions 	Specific LGenC regulatory making powers regarding shoreline protection (section 26). Specifically, in areas where there is an approved initiative and the area is also close to a shoreline, tributary, or wetlands, regulations can prohibit activities and/or require activities to happen (e.g. both prohibit and mandate activities near wetlands that will restore the ecological health of the wetlands).
<ul style="list-style-type: none"> ● Include assessment of past and ongoing practices 	Enabled, will depend on the specifics in the proposals for and the development of initiatives with regard to the issue being addressed.
<ul style="list-style-type: none"> ● Include consideration of and responses to impacts resulting from direct deposition of contaminants to ground and surface water, and to air, as well as point and non-point sources of contaminants in integrated watershed management approaches 	Enabled, will depend on the specifics in the proposals for and the development of initiatives.
<ul style="list-style-type: none"> ● The ultimate goal of Integrated Watershed Management is protection, restoration and enhancement of human health; water quality; water quantity; aquatic ecosystems; and the overall functioning of the hydrological system in order to prioritize management approaches for the watershed / sub-watershed or where relevant, for the open lakes 	Very clear prioritization for anything that provides for the “greatest protection to the ecological health of the Great Lakes-St. Lawrence River Basin”.
<ul style="list-style-type: none"> ● Provide for regulations relating to ongoing monitoring requirements by municipalities and Ontario and others with respect to relevant targets 	Enabled. Particularly, public bodies will have to comply with a direction to monitor (s.25).
<ul style="list-style-type: none"> ● Link to new Municipal Water Sustainability Plans under the <i>Water Opportunities Act</i>; to community energy planning; and to other required and ongoing community planning exercises 	These linkages are not specifically mentioned; to the extent that there is a conflict among Acts, the provision that provides “greatest protection to the ecological health of the Great Lakes-St. Lawrence River Basin” prevails.

Comments on Part VI

The undersigned support the approach to developing geographically-focussed initiatives (GFIs). We also support the conflict resolution provisions (i.e. the provision that provides that the greatest protection to the ecological health of the Great Lakes-St. Lawrence River Basin prevails). We also support the

approach that certain policies from the schedules may be “designated” so as to result in conformity requirements, or not, so as to result in “have regard for” requirements in municipal and provincial decision making. This flexibility is important in keeping with the “one size does not fit all” approach as we mentioned earlier. We also support the range of policies (with and without legal effect) contained in the Schedules, and the ability to seek a shoreline protection regulation in those areas that need it, within the development of initiatives. We agree with the proposed process in that it provides for broad consultation and ultimately approval by the LGiC of a geographically-focussed initiative (this being the second LGiC approval; the first relates to the proposal for an initiative in a specific location). This is important because policies included in the GFI will have legal effect across government and within the affected municipalities and, therefore, it is important to have broad multi-Ministry involvement in their development. At the same time, the intended inclusive and transparent approach to developing GFIs (as outlined in Parts V and VI) is extremely important to ensure the GFIs be both broadly supported and broadly understood by the various interests whose actions and decisions affect the health of their part of the Basin.

We recommend that the ability to include an assessment of past and ongoing practices be specifically provided in Bill 100. While it does include the term “activities” in paragraph 19(2)3, it is not explicitly clear that it should apply not only to future activities but also potentially to past or ongoing activities where they are affecting the ecological health of the Basin.

As we interpret Bill 100, it is open for there to be a recommendation within a geographically-focussed initiative that local by-law(s) would be the best tool to achieve the goals therein. We recognize that it will not be possible to bind a current or future local government in respect of their law-making; however, we want ensure that there is no confusion about whether a local government could, if they choose to do so, use their existing powers to implement initiatives.

We also recommend explicit linkage to the *Water Opportunities Act*, *Ontario Water Resources Act*, and the *Clean Water Act*, among others, in that they include companion legislative provisions that also serve to protect the Great Lakes. For example, the conservation provisions and water innovation provisions under the *Water Opportunities Act* should in particular align with the purposes of the proposed Great Lakes Protection Act. The yet to be proclaimed provisions of the *Ontario Water Resources Act* that are to implement the Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement will be directly applicable to the purposes of the proposed Great Lakes Protection Act. The *Clean Water Act* provides for drinking water Source Protection Plans in specific regions; that Act also provides that the Minister may establish one or more Great Lakes advisory committee(s) to provide advice as to the use of the Great Lakes as a source of drinking water; as well as set drinking water targets for the Great Lakes in one or more source protection areas. These and other provisions, including development of water and energy conservation plans by municipalities and public sectors, as well as by industry, should be aligned with those sections of the proposed Great Lakes Protection Act that relate to the development of GFIs to ensure that initiatives and other types of planning in that area are well co-ordinated, to avoid duplication of effort, and to derive co-benefits from these various provisions.

Since decision making principles have not yet been added to the proposed Act, it is not clear that decision making in relation to this Part will follow such principles. This reinforces the need for inclusion of decision making principles; in particular science based decision making and application of the precautionary principle (see Recommendation 2 above).

Finally, as mentioned earlier for proposals for initiatives, it is important to establish early on in the process of developing an initiative how it will be resourced.

Recommendation 13: Add the phrase, “past, present, or future” to modify the word “activities” in section 19(2)3 of Part VI.

Recommendation 14: Add a section to Part VI specifying that initiatives should be developed so as to take account of and coordinate with plans, measures or provisions pertinent to that geographically-focussed area, as developed under the *Water Opportunities Act*, *Ontario Water Resources Act*, *Clean Water Act*, *Lake Simcoe Protection Act*, *Conservation Authorities Act*, *Safe Drinking Water Act*, and *Nutrient Management Act* so as to seek to maximize co-benefits and undertake joint planning where feasible.

Recommendation 15: An initiative should include a statement of the funding required for carrying out the initiative and any proposed funding partnerships, along with confirmation from funding partners of what they will contribute to the implement the initiative.

Part VII – MISCELLANEOUS (sections 27-37)

Overview

Part VII contains additional provisions of significant import, many of which affect other Parts of Bill 100. These include provisions related to:

- public consultation (Strategy, targets, proposals, and initiatives are to be treated as policies under the *Environmental Bill of Rights*);
- traditional ecological knowledge (First Nations and Métis communities, at their own discretion, can offer Traditional Ecological Knowledge to assist in fulfilling the purposes of the proposed Act);
- limitation on the delegation of the Minister’s powers/duties (establishing targets, directing the development of a proposal, amending an approved proposal, referrals to LGenC are all powers that cannot be delegated);
- provision of extensions (the Minister can, in writing, extend deadlines for anything under the proposed Act);

- the requirement that Great Lakes agreements be considered in development of targets, proposals, and initiatives;
- effect of Minister’s direction (that the public body shall comply with directions);
- non-application of the *Statutory Powers Procedure Act, Environmental Assessment Act, and Legislation Act, 2006*;
- limitations on remedies;
- resolution of conflict with other Acts (the provision that provides the “greatest protection to the ecological health of the Great Lakes-St. Lawrence River Basin” prevails); and
- authorizing the LGenC to make regulations, including regulations related to: designating “prescribed instruments”; “resolving conflicts between the provisions of designated policies set out in initiatives and the provisions of [provincial] plans and policies”; and “resolving any non-conformity between provisions of prescribed instruments and designated policies set out in initiatives” (subsection 36(1)).

Comparison to Alliance’s Statement of Expectations Drafting Notes

DRAFTING NOTES OBJECTIVES OF THE ACT/WHAT IT WILL ACHIEVE:	RELEVANT PROVISIONS IN BILL 100
Provide for Ontario leadership in the Great Lakes domestic and bi-national contexts	Great Lakes agreements are to be considered in establishment/review of Strategy, establishment of targets, and development/amendment of an initiative (s.31) These Agreements include: <ul style="list-style-type: none"> • The Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement • The Great Lakes Charter • The Canada-Ontario Agreement • The Great Lakes Water Quality Agreement
Include needed climate change risk and impact responses	Purposes of the proposed Act include advancing science relating to existing and emerging stressors, such as climate change. First draft Strategy proposes under its Proposed Focus for Future Action, the topic of Climate Change impacts and adaptation, implementation of adaptation actions under <i>Climate Ready</i> , and several other actions including science and infrastructure, research and economics (pages 53-54 of Strategy).
<ul style="list-style-type: none"> • Integration of water quality and quantity management with natural heritage planning 	Enabled.

DRAFTING NOTES OBJECTIVES OF THE ACT/WHAT IT WILL ACHIEVE:	RELEVANT PROVISIONS IN BILL 100
Set individual Great Lakes reporting requirements on three to five year cycles (including to the Legislature) relevant to targets and provide for reporting from municipalities, Ontario, and provide for reporting based on integration of regional and inter-jurisdictional data collection and reporting including federal and bi-national	Great Lakes reporting enabled, but no specified cycle.

Comments on Part VII

The undersigned strongly support the Environmental Registry notice provisions set out in the proposed Act (section 27). We also support the option (which they possess in any event) that First Nations and Métis communities can, in their own discretion, provide traditional ecological knowledge to assist in anything done under the proposed Act (section 28). In the event that First Nations and Métis communities provide traditional ecological knowledge, Bill 100 should require that the Minister or other decision-maker under the proposed Act must consider it. We agree that the Great Lakes agreements listed must be considered in the Strategy and its actions, as well as in establishing targets and developing geographically-focussed initiatives (section 31).

We support the requirement that public bodies should be sharing documents among themselves to achieve the goals of the proposed Act. Specifically, subsection 32(2) requires the sharing of documents between public bodies for the purposes of developing a proposal for an initiative (Part V), or developing, amending or reviewing an initiative (Part VI) and for reporting on the progress or implementation of an initiative. We suggest that the requirement be extended to include sharing of data as well.

In order to measure the achievement of the purposes of the proposed Act, we recommend the addition of a provision requiring overall Great Lakes reporting, within specific time frames (we recommend three, four, or five year cycles), to the Legislature and to the public, against targets established under Part IV, and with respect to the objectives contained in the Strategy under Part III, as well as with respect to development of initiatives and their implementation under Parts V and VI. We also recommend that this be the responsibility of the Minister of the Environment, with input from all of the Great Lakes ministers.

We also recommend that an additional provision be added such that “any person” may request that the Minister develop a target or commence the process to develop a geographically-focussed initiative.

In addition, we note the need for a rigorous and inclusive process for selecting indicators and endpoints for evaluating ecosystem “health” and that the notion of cumulative impacts, either positive or negative, be recognized and a commitment made to such measurements in the proposed Act.

Recommendation 16: Section 28 should be amended to add that in the event that First Nations and Métis communities provide traditional ecological knowledge, the Minister or other decision-maker under the Act must consider it.

Recommendation 17: Add “or data” to the heading for and within subsection 32(2) so that it reads “Request for documents or data” and “... copies of any documents or data that are in its possession and control ...”.

Recommendation 18: The addition of a provision requiring that the Minister of the Environment, with input from all of the Great Lakes ministers, report to the Legislature and to the public:

- as to the achievement of the purposes of the proposed Act;
- with respect to the objectives contained in the Strategy under Part III;
- against targets established under Part IV;
- with respect to the goals contained in the Strategy under Part III;
- with respect to development of initiatives and their implementation under Parts V and VI;
- regarding new, emerging or potential threats to the Great Lakes and St. Lawrence basin, consistent with precautionary and preventative approaches; and
- within specific time frames (we recommend three, four, or five year cycles).

Recommendation 19: An additional provision be added such that “any person” may request that the Minister develop a target or commence the process to develop a geographically-focussed initiative.

Recommendation 20: Include a rigorous and inclusive process for selecting indicators and endpoints for evaluating ecosystem “health”; including provision for assessment of cumulative impacts, either positive or negative. Include a further requirement to measure both indicators and endpoints for evaluation of ecosystem health, as well as to measure assessment of cumulative impacts in the proposed Act.

Part VIII – Commencement and Short Title

Overview

The short title will be the *Great Lakes Protection Act, 2012* and it will come into force when proclaimed by the Lieutenant Governor.

Comments on Part VIII

The undersigned support the short title of the proposed Act. We are hopeful that, if passed, the proposed Act will be brought into force and fully implemented within a reasonable timeframe. We also note that the potential of Bill 100 cannot be met unless the provincial government ensures that the resources are made available for provincial government departments and public bodies to carry out the actions that they are responsible for deriving from this legislation.

Conclusion

The Great Lakes Protection Act Alliance and undersigned groups support passage of Bill 100. This is a significant piece of legislation, which will add important new tools to provide for protection of the Ontario portion of the Great Lakes – St. Lawrence Basin. As a complete package, we enclose for your convenience a copy of the Great Lakes Protection Act Alliance Statement of Expectations and Drafting Notes to which we have been referring throughout this submission. We also enclose Backgrounders prepared by members of the Alliance on the topics of Green Space and Healthy Great Lakes; Connecting People to the Great Lakes; Working Together – Protecting Natural Resources and Their Functions; Human Health and the Great Lakes; Great Lakes Beaches; and Integrated Governance.

We submit for consideration the recommendations made above in respect of the Preamble and each Part of the proposed Act, which are summarized together below for convenience:

Summary of Recommendations

Recommendation 1: Add “organizations” to clause 1(1)(b), such that it reads: “to create opportunities for individuals, organizations and communities to become involved in the protection and restoration of the ecological health of the Great Lakes-St. Lawrence River Basin.” Add reduction and elimination of toxic chemicals in the Basin, in particular air borne pollutants including those that have cumulative impacts and including persistent organic pollutants to the non-exclusive list in subsection 1(2).

Recommendation 2: Add principles to Bill 100 to guide decision making in the Basin. Such principles must guide Great Lakes related decision making and input under this Act and other legislation that contains Great Lakes provisions, as well as guide Ontario’s involvement and decision making in Great Lakes Agreements with other jurisdictions. These principles include science based priority setting and decisions; prevention of harm; restoration, citizen involvement; collaboration and integration; and application of the precautionary principle including taking account of uncertainty in existing and future Great Lakes responsibilities.

Recommendation 3: Two groups should be established in Part II, rather than one. One of them should consist of longer term members including specialists, scientists and Great Lakes stakeholders with commitment and continuity. It should operate with terms of reference and procedures including

regular meetings with specified minimum frequencies. The other group should operate in the informal and ad hoc manner as currently drafted in this Part in terms of being assembled by the Minister issue by issue for additional advice. Both groups should include watershed based perspectives.

Recommendation 4: Add “conservation authorities” to list in clause 4(3)(d), such that it reads: “representatives of the interests of conservation authorities, environmental organizations, the scientific community and ...”

Recommendation 5: An addition to Part III should specifically require that all the Great Lakes ministers pursue the achievement of the Vision and Goals established in the Strategy.

Recommendation 6: An addition to Part III should specifically require that the Minister is responsible for pursuing the achievement of the Vision and Goals established in the Strategy.

Recommendation 7: An addition to Part III should require that the Minister of the Environment establish metrics to explicitly report against achievements of the Vision and Goals and report on those metrics on a defined frequency, such as every 3, 4 or 5 years.

Recommendation 8: An addition to Part III should give the Minister the responsibility to ensure that the Strategy takes into account and builds on previous activities intended to protect and restore the ecological health of the Basin, including education and outreach activities.

Recommendation 9: Part IV should be amended to ensure that the Minister is mandated to set targets.

Recommendation 10: Add to Parts V (section 11) and VI (section 19) a requirement that initiatives include a plan for implementation.

Recommendation 11: A proposal for an initiative should include a statement of the funding required for the proposal and any proposed funding partnerships, along with confirmation from funding partners of what they will contribute to the proposal.

Recommendation 12: Add to Parts V and VI a requirement that the Minister maintain an internet posting with an up-to-date status of all proposals for initiatives and development of initiatives at all stages.

Recommendation 13: Add the phrase, “past, present, or future” to modify the word “activities” in section 19(2)3 of Part VI.

Recommendation 14: Add a section to Part VI specifying that initiatives should be developed so as to take account of and coordinate with plans, measures or provisions pertinent to that geographically focussed area, developed under the *Water Opportunities Act*, *Ontario Water Resources Act*, *Clean Water Act*, *Lake Simcoe Protection Act*, *Conservation Authorities Act*, *Safe Drinking Water Act*, and

Nutrient Management Act so as to seek to maximize co-benefits and undertake joint planning where feasible.

Recommendation 15: An initiative should include a statement of the funding required for carrying out the initiative and any proposed funding partnerships, along with confirmation from funding partners of what they will contribute to the implement the initiative.

Recommendation 16: Section 28 should be amended to add that in the event that First Nations and Métis communities provide traditional ecological knowledge, the Minister or other decision-maker under the proposed Act must consider it.

Recommendation 17: Add “or data” to the heading for and within subsection 32(2) so that it reads “Request for documents or data” and “... copies of any documents or data that are in its possession and control ...”.

Recommendation 18: The addition of a provision requiring that the Minister of the Environment, with input from all of the Great Lakes ministers, report to the Legislature and to the public:

- as to the achievement of the purposes of the proposed Act;
- with respect to the objectives contained in the Strategy under Part III;
- against targets established under Part IV;
- with respect to the goals contained in the Strategy under Part III;
- with respect to development of initiatives and their implementation under Parts V and VI;
- regarding new, emerging or potential threats to the Great Lakes and St. Lawrence basin, consistent with precautionary and preventative approaches; and
- within specific time frames (we recommend three, four, or five year cycles).

Recommendation 19: An additional provision be added such that “any person” may request that the Minister develop a target or commence the process to develop a geographically-focussed initiative.

Recommendation 120: Include a rigorous and inclusive process for selecting indicators and endpoints for evaluating ecosystem “health”; including provision for assessment of cumulative impacts, either positive or negative. Include a further requirement to measure both indicators and endpoints for evaluation of ecosystem health, as well as to measure assessment of cumulative impacts in the proposed Act.

We look forward to providing further input on Bill 100, the proposed Great Lakes Protection Act. We are available to meet at your convenience to discuss these comments and suggestions.

Yours very truly,



CANADIAN ENVIRONMENTAL
LAW ASSOCIATION

Canadian Environmental Law Association
Theresa McClenaghan, Executive Director and Counsel



Ducks Unlimited Canada
Mark Gloutney, Director of Regional Operations, Eastern
Region



Ecojustice
Dr. Anastasia Lintner, Economist and Staff Lawyer



environmental
defence
INSPIRING CHANGE

Environmental Defence
Rick Smith, Executive Director



Great Lakes United
John Jackson, Interim Executive Director,
and Director, Clean Production and Toxics



Sierra Club Ontario
Mary Muter, Chair, Great Lakes Section



Blue Mountain Watershed Trust Foundation
Norm Wingrove, President



Bruce Peninsula Environment Group
Jacqui Wakefield, Chair



Canadian Association of Physicians for the Environment
Farrah Khan, Interim Executive Director



Canadian Federation of University Women, Ontario Council
Brenda Robertson, President



Citizens Environment Alliance of southwestern Ontario
Derek Coronado, Coordinator



Ecologos Institute
Stan Gibson, Executive Director



Freshwater Future
Jill Ryan, Executive Director



Friends of the Earth, Canada
Beatrice Olivastri, CEO



Grey Association for Better Planning
Margaret Hutchison, Director

Just One World
Chaitanya Kalevar, Founder



Dr. Gail Krantzberg, Professor and Director of the Centre for Engineering and Public Policy in the School of Engineering Practice, McMaster University

Ohio Environmental Council
Kristy Meyer, Director of Agricultural & Clean Water Programs



Ontario Nature
Caroline Schultz, Executive Director



The POLIS Project on Ecological Governance
Carol Maas, M.A.Sc.
Innovation and Technology Director

Provincial Council of Women of Ontario
Gracia Janes, VP Environment



Sustainability Project / 7th Generation Initiative
Mike Nickerson, Executive Director

Encl:

Great Lakes Protection Act Alliance Statement of Expectations and Legislative Drafting Notes

Great Lakes Protection Act Alliance Backgrounders:

Green Space and Healthy Great Lakes

Connecting People to the Great Lakes

Working Together – Protecting Natural Resources and Their Functions

Human Health and the Great Lakes

Great Lakes Beaches

Integrated Governance

Cc: Gord Miller, Environmental Commissioner of Ontario