



Protecting Waukesha County's natural resources since 1978

Waukesha County Environmental Action League
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March 21, 2018

Adam Freihoefer
Water Use Section Chief
Wisconsin Department of Natural Resources
101 S Webster Street
Madison, WI 53703
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Re: The City of Racine's Great Lakes Water Diversion Application

Dear Mr. Freihoefer:

The Waukesha Environmental Action League, WEAL, is a Waukesha County-based, 40-year old organization committed to protecting the natural resources of Waukesha County. Why are we commenting on a Town of Mount Pleasant and the city of Racine's application to divert Lake Michigan water up to 7 mgd in Racine County?

Because for nearly 20 years, WEAL, along with our state partners in the Compact Implementation Coalition and regional partner organizations, has been heavily involved in issues related to the city of Waukesha's application for a Lake Michigan diversion and prior to that, the passage of a strong Great Lakes Compact, its implementation, and precedent-setting potential.

One of the most contentious issues of Waukesha's application was the extended water service area, really several areas in all four directions to the city of Waukesha that weren't part of the city, weren't part of the Water Utility's customer base, didn't need water, hadn't asked for water and lacked community connection to the city of Waukesha. These outlier areas also lacked any common

infrastructure, especially for supplying and returning water from and to a common source. Yet the first iterations of Waukesha's many applications all included the expanded water service area. Some suspect it was glued on to incentivize growth in the more rural and exurban areas of the county; others think its purpose was to justify a higher amount of water for Waukesha's request.

Whatever the reason, once the Waukesha application reached the regional level of evaluation and review by the Regional Body and the Great Lakes Council of Governors, its response was a resounding NO. The Body went beyond NO and added conditions that dialed back boundaries of even areas of the Town of Waukesha that had been given the opportunity to apply for city water but had not yet done so.

We remind you of this as you begin your evaluation and review of Racine's application. Please explain how the area proposed to be served by the city of Racine—an area well outside the Great Lakes basin, an area lacking contiguity with city boundaries, lacking infrastructure, lacking community connections, lacking the threshold requirement of ***need for potable water***, lacking residential inhabitants, and lacking an application of its own (not Racine's, not Mt. Pleasant's)—isn't exactly the same as the city of Waukesha's expanded water service area that caused its rejection by the Regional Body and Great Lakes Council in 2015.

If WisDNR approves this application under these dubious circumstances, how will other applications with expanded water service areas be treated in the future? Does the city of Waukesha have legal recourse for returning to the Regional Body / Great Lakes Council with a request for an increased amount of water based on another expanded water service area?

All along the course of Waukesha's application, from 2007 through 2015, WEAL and its state and regional partners continued to raise the concern of Waukesha's precedent-setting impact on the Great Lakes Compact. We feared that anything less than a letter-tight and spirit-respecting application would have great potential to harm the Compact and weaken its protections, particularly in the exceptions to the Compact's ban on diversions. We feared that anything less than a letter-tight and spirit-respectful application would have great potential to harm the Compact and weaken its protections, especially the exceptions to the Compact's ban on diversions. We were concerned that any chipping away of the Compact's protections would be but the first. Our concerns were mostly ignored or brushed off. The Water Utility and its diversion proponents included the question of precedents in presentations to the public during the rounds of

WisDNR and Regional Review public hearings, stating: “That could NEVER happen.”

Not three years later, here we are in precedent-setting territory again: Racine’s application not only chips away at the Compact’s ban on diversions and other protections of the Compact, but also creates new categories of straddling areas (a manufacturing zone and non-residential area) leading Wisconsin DNR to determine—somehow—that a diversion of Lake Michigan water for Foxconn isn’t worthy of a regional review.

WEAL and other organizations have stated these concerns and more:

- Racine’s application ignores the Great Lakes Compact requirement that diversions must be for a public water supply. It defines ‘public’ as primarily residential,
- Foxconn plans to return only 60% of the water it diverts back to Lake Michigan, a shockingly low amount considering that the city of Waukesha diversion originally planned to return 85% of diverted water (less 15% for consumptive use),
- Foxconn refuses to reveal the contaminants in its discharge water, but the manufacturing process it uses is known to contain mercury, chromium, cadmium, zinc and copper. Foxconn says the water it discharges to Racine water treatment plant will be pre-treated, but to what degree can these heavy metals be removed or even mitigated?
- Racine’s application also ignores the Compact requirement for a community to be ***without a supply of potable water***. And by the way, potable water isn’t necessary for Foxconn’s non-residential, manufacturing process.

Please do the right thing and reject this application until additional critical information on water quality and the impact on the Great Lakes Compact can be made available to the public.

Thank you.

Laurie Longtine

For WEAL