

June 28, 2021

Mr. Edwin Smith  
U.S. Environmental Protection Agency  
77 West Jackson Boulevard  
Chicago, IL 60604-3507  
[Smith.Edwin@epa.gov](mailto:Smith.Edwin@epa.gov)

Ms. Lisa Sealock  
Program Coordinator - Great Lakes Harmful Pollutants  
Environment and Climate Change Canada  
4905 Dufferin Street, 4n732  
Toronto, ON M3H 5T4  
[lisa.sealock@canada.ca](mailto:lisa.sealock@canada.ca)

Dear Mr. Smith and Ms. Sealock,

On behalf of the 23 undersigned organizations, we are writing concerning work on per- and polyfluoroalkyl substances (PFAS) under Annex 3 of the Great Lakes Water Quality Agreement. We urge the U.S. and Canadian Governments to work together in developing a joint binational strategy to address these chemicals in the Great Lakes region.

As you know, under Annex 3 of the Great Lakes Water Quality Agreement (GLWQA), the Canadian and U.S. Governments (the Parties) have designated two individual PFAS and their isomers (perfluorooctanoic acid, or PFOA, and perfluorooctane sulfonic acid, or PFOS) and one category (long-chain perfluoroalkyl carboxylic acids, or LC-PFCAs) as chemicals of mutual concern (CMCs).<sup>1</sup>

Furthermore, Annex 3 of the GLWQA (Programs and Other Measures section) clearly stipulates steps to take once chemical substances are designated as CMCs:

*“The Parties, in cooperation and consultation with State and Provincial Governments, Tribal Governments, First Nations, Métis, Municipal Governments, watershed management agencies, other local public agencies, and the Public, shall target these chemicals of mutual concern for action by:*

- 1. preparing binational strategies for chemicals of mutual concern, which may include research, monitoring, surveillance and pollution prevention and control provisions;*

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<sup>1</sup> Canada – U.S. Collaboration for Great Lakes Water Quality, Chemicals of Mutual Concern (Annex 3), <https://binational.net/annexes/a3-2/>.

2. *coordinating the development and application of domestic water quality standards, objectives, criteria, and guidelines among the Parties and other governmental entities, subject to relevant domestic law and regulation, by...*<sup>2</sup>

The language in the GLWQA clearly indicates the Parties are to develop a binational strategy for any and all substances designated as CMCs, the approach that has been used to date for polychlorinated biphenyls (PCBs), polybrominated diphenyl ethers (PBDEs), and hexabromocyclododecane (HBCD). Concerning PFAS, to date, the Parties have determined that rather than developing a joint strategy to address PFAS, they would rely on actions identified in the U.S. PFAS Action Plan<sup>3</sup> as well as a Canadian PFAS Strategy, released in April 2021 in draft form,<sup>4</sup> and for which NGOs recently provided input.<sup>5</sup> The 25 signatory organizations to the NGO submission strongly recommended that “...Canada and United States develop a binational strategy on PFOS, PFOA, and LC-PFCA in support of their commitment to binational strategies under the GLWQA.” We are concerned with the current approach to PFAS strategy development, including our fear of a precedence whereby the Parties not develop binational strategies for other chemicals or chemical groups that may be designated as chemicals of mutual concern in the future, either based on mutual agreement or actions by one of the Parties.

Contrary to actions taken to date by the Parties for PFAS, we believe a binational strategy to address PFAS is both called for under the GLWQA and is essential to help ensure the meeting of objectives under the GLWQA. Developing a binational strategy can help ensure the governments are coordinating as effectively as possible in programs – in this case to address PFAS – including through the development and application of standards and other targets as indicated in the directive in the GLWQA as noted above. Such a strategy can draw on elements already developed in the Canadian draft Strategy, as well as efforts to date or in development in the U.S. involving PFAS and relevant to the Great Lakes.

In summary, we urge the governments to reconsider their decisions to date, and recommit to developing a joint, comprehensive binational strategy for PFAS.

Sincerely,

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<sup>2</sup> Government of Canada and Government of the United States of America. Great Lakes Water Quality Agreement, 2012.

<sup>3</sup> USEPA, 2019. U.S. EPA’s Per- and Polyfluoroalkyl Substances (PFAS) Action Plan. <https://www.epa.gov/pfas/epas-pfas-action-plan>.

<sup>4</sup> Canada’s Great Lakes Strategy for PFOS, PFOA and LC-PFCAs Risk Management. <https://binational.net/wp-content/uploads/2021/04/20210419-DRAFT-GLStrategy-PFOS-PFOA-LC-PFCAs.pdf>

<sup>5</sup> Canadian Environmental Law Association (CEAL) et al. 2021. Comments on the draft of Canada’s Great Lakes Strategy for PFOS, PFOA and LC-PFCAs Risk Management (April 26, 2021), May 26, 2021. <https://cela.ca/ngo-comments-on-the-draft-of-canadas-great-lakes-strategy-for-pfos-pfoa-and-lc-pfcas-risk-management/>



**National Wildlife Federation, Great Lakes Regional Center**

Michael Murray, Ph.D.

Co-Chair, Toxics-Free Great Lakes Binational Network

Email: [murray@nwf.org](mailto:murray@nwf.org)



**Toxics-Free Great Lakes Binational Network**

John Jackson, Co-Chair

Email: [jjackson@web.ca](mailto:jjackson@web.ca)



**Canadian Environmental Law Association**

Fe de Leon, MPH

Researcher and Paralegal

Email: [deleonf@cela.ca](mailto:deleonf@cela.ca)



**Ontario Rivers Alliance**

Linda Heron, Chair

Email: [lindah@ontarioriversalliance.ca](mailto:lindah@ontarioriversalliance.ca)



**Health and Environment Justice Support (HEJSupport)**

Olga Speranskaya, PhD, Co-Director

Email: [olga.speranskaya@hej-support.org](mailto:olga.speranskaya@hej-support.org)



**Blue Fish Canada**

Lawrence Gunther, President

Email: [director@bluefishcanada.ca](mailto:director@bluefishcanada.ca)



**Sierra Club Ontario**

Lino Grima

Email: [lino.grima@utoronto.ca](mailto:lino.grima@utoronto.ca)



**Institute for Agriculture & Trade Policy**

Sharon Anglin Treat, Senior Attorney

Email: [streat@iatp.org](mailto:streat@iatp.org)



### **Freshwater Future**

Kristy Meyer, Associate Director

Email: [Kristy@FreshwaterFuture.org](mailto:Kristy@FreshwaterFuture.org)



### **Environmental Defence**

Michelle Woodhouse, Program Manager of Water and the Great Lakes

Email: [mwoodhouse@environmentaldefence.ca](mailto:mwoodhouse@environmentaldefence.ca)



### **Women's Healthy Environments Network (WHEN)**

Cassie Barker, Executive Director

Email: [cassie@womenshealthyenvironments.ca](mailto:cassie@womenshealthyenvironments.ca)



### **The Oxford Coalition for Social Justice**

Bryan Smith, Chair

Email: [bryasmit@oxford.net](mailto:bryasmit@oxford.net)



### **Tip of the Mitt Watershed Council**

Grenetta Thomassey, PhD,

Watershed Policy Director

Email: [grenetta@watershedcouncil.org](mailto:grenetta@watershedcouncil.org)



Citizens Environment Alliance

### **Citizens Environment Alliance of Southwestern Ontario**

Derek Coronado (he/him), Coordinator,

Email: [dcoronado@cogeco.net](mailto:dcoronado@cogeco.net)



**Provincial Council of Women of Ontario**

Edeltraud Neal, President

Email: [edeltraud.neal@gmail.com](mailto:edeltraud.neal@gmail.com)



**MN Division – Izaak Walton League of America**

Jill Crafton, National Director – MN Division – Izaak Walton League

Email: [jillgreatlakesike@gmail.com](mailto:jillgreatlakesike@gmail.com)



**Milwaukee Riverkeeper**

Cheryl Nenn, Riverkeeper

Email: [cheryl\\_nenn@milwaukeekeeper.org](mailto:cheryl_nenn@milwaukeekeeper.org)



Illinois Council  
Trout Unlimited

**Illinois Council of Trout Unlimited**

Edward L Michael, Chair, Government Affairs

Email: [Michael223@comcast.net](mailto:Michael223@comcast.net)

**Upper St Lawrence Riverkeeper**

John Peach

Executive Director and Upper St Lawrence Riverkeeper

Email: [Executivedirector@savetheriver.org](mailto:Executivedirector@savetheriver.org)

**Headwaters Chapter Izaak Walton League**

Ivan Hack, President

Email: [conservationi3@sbcglobal.net](mailto:conservationi3@sbcglobal.net)

**Friends of Kingston Inner Harbour**

Mary Farrar, President,

Email: [inverarymary@yahoo.com](mailto:inverarymary@yahoo.com)

**Religious Coalition for the Great Lakes**

Irene Senn, Coordinator

Email: [imbsenn@gmail.com](mailto:imbsenn@gmail.com)

**Love of Water (FLOW)**

Liz Kirkwood, Executive Director

Email: [liz@flowforwater.org](mailto:liz@flowforwater.org)

Mike Wilton, President, **Algonquin Eco Watch** (former)

Email: [wilton@algonquin-eco-watch.com](mailto:wilton@algonquin-eco-watch.com)

Sarah Miller

Email: [reachsandbarsarah@gmail.com](mailto:reachsandbarsarah@gmail.com)

