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Challenge to Diversion of Great Lakes Water for Foxconn Moves Forward Amidst an Upsurge of Support for the Compact

MADISON, WI – June 14, 2018 – A legal challenge to Wisconsin’s approval of a 7 million gallon per day Great Lakes water diversion to supply a Foxconn industrial complex moved a step forward this week when Wisconsin DNR notified Midwest Environmental Advocates that their request for a contested case hearing had been granted. DNR will soon be forwarding the case to the Division of Hearings and Appeals where an Administrative Law Judge will be assigned to oversee the proceedings.

“The DNR’s decision to grant our petitioners’ request is welcome news,” stated Midwest Environmental Advocates attorney, Jodi Habush Sinykin, “and it comes at a time of renewed support around the region for a strong Great Lakes Compact, whose core principles are honored in keeping with the letter and spirit of the agreement.”

On May 25, 2018, Midwest Environmental Advocates filed a legal action on behalf of petitioners, Milwaukee Riverkeeper, League of Women Voters of Wisconsin, River Alliance of Wisconsin and Minnesota Center for Environmental Advocacy, to challenge Wisconsin DNR’s approval of the City of Racine’s request to divert Lake Michigan water to supply the Foxconn facility. According to the petition, DNR ignored a key Compact requirement that any water diverted outside the Great Lakes basin must serve a public purpose, defined in the agreement as “*servicing a group of largely residential customers.*” As stated in the petition, the 7 million gallon per day of diverted water requested by Racine will be provided to one private industrial user, Foxconn, rather than a group of households.

“We determined it vital to challenge Wisconsin’s approval of the diversion requested for Foxconn,” said Jimmy Parra, staff attorney for Midwest Environmental Advocates, “because Wisconsin DNR’s interpretation of public water supply purposes, if not corrected, creates a glaring loophole that opens our region to a potential onslaught of diversions to other private entities, jeopardizing the intent and integrity of the Great Lakes Compact.”

“It’s not right for one state to redefine the rules for the Great Lakes Compact without input from all states and provinces co-managing the largest freshwater resource on the planet,” stated Kathryn Hoffman, CEO of Minnesota Center for Environmental Advocacy.

It appears that more states agree, as evidenced by letters and recent resolutions by other Great Lakes states and communities, including New York and Illinois. Since the legal challenge's filing in May, citizens and organizations throughout the basin have contacted the petitioner groups, asking how they can help defend the Compact's standards on diversions. The League of Women Voters of the Lake Michigan Region has formally approved active participation in working to protect the Compact from the dangerous loophole created in the Racine diversion approval.

The formal support from League of Women Voters within the Great Lakes states of Illinois, Indiana and Michigan is an indicator of the broad public concern about future diversions if Wisconsin's Foxconn Loophole is allowed to stand, observed Louise Petering, Director of League of Women Voters Wisconsin. "Protecting public rights protects public waters," said Petering, "President G.W. Bush signed the Compact into law in 2008, codifying standards developed over many years with participation from a large and diverse number of people. The WDNR must be held to the requirements in this historic law that specifically addressed the rights of future generations to water resources and economic opportunities."

Cheryl Nenn, a petitioner from Milwaukee Riverkeeper raises long term concerns about Wisconsin DNR's misinterpretation, "The integrity of the Compact's careful consideration of when it is appropriate to send Great Lakes water outside the basin is essential to the central goal of protecting the world's largest freshwater ecosystem from piecemeal decision-making that benefits some while burdening many."

Raj Shukla, petitioner and executive director of the River Alliance of Wisconsin echoed Nenn's concern for the future, "Experience world-wide shows us how quickly even large bodies of water can be depleted. In a just a few decades the Aral Sea was drained of over 90% of its water when the rivers that fed it were diverted. We have a duty to future generations to defend the Compact requirements designed to meet community and economic needs while sustaining our precious freshwater for generations to come."

About the Great Lakes Compact

The Great Lakes–St. Lawrence River Basin Water Resources Compact (the "Great Lakes Compact") is a legally binding interstate compact among the U.S. states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin to implement the Great Lakes-St. Lawrence River Basin Water Agreement which includes the Canadian Provinces Ontario and Quebec.

About Midwest Environmental Advocates

Midwest Environmental Advocates is a nonprofit environmental law center that works for healthy water, air, land and government for this generation and the next. We believe that every citizen has the potential to make a difference.

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