



22 March 2021

Jim Bradley, Regional Chair
Regional Municipality of Niagara
1815 Sir Isaac Brock Way, P.O. Box 1042
Thorold, ON L2V 4T7

Re: Ramsar Designation for the Niagara River Corridor

Dear Chair Bradley,

It is an honor to share my thoughts with you as a scholar and lawyer regarding several regulatory and legal concerns recently raised regarding the Niagara River Corridor becoming a Ramsar Wetland of International Importance. This letter contains a brief background about Ramsar and the impacts and the benefits of a Ramsar designation, and a review of how such designation is applicable and beneficial to the Niagara River Corridor. It also includes an explanation of the non-regulatory nature of a Ramsar designation.

I write this letter as an environmental law scholar who has studied and published regarding wetlands regulation, both nationally within the United States as well as in the international arena. But perhaps more importantly, I write as a licensed legal practitioner who has assisted in the preparation of materials for several U.S. Ramsar designations, including the U.S. side of the Niagara River Corridor, as a former Executive Committee member of the U.S. National Ramsar Committee, and as someone who has been invited to several Ramsar Conferences of the Parties as an International Wetlands Expert.

The Ramsar Convention on Wetlands is an intergovernmental treaty on wetlands conservation that was adopted in 1971. As of 2021, there are 171 member countries, known as Contracting Parties, which have designated 2,417 Ramsar Sites around the world, including 41 U.S. sites and 37 Canadian sites.

The Niagara River was deemed by the International Joint Commission (IJC) in the early part of the 20th century as the most degraded place in North America. By the 1970's there were over 700 chemical industries, steel mills, oil refineries, etc. discharging over 950 million gallons of wastewater into the Niagara River each day. In response to environmental degradation around the Great Lakes, the Great Lakes Water Quality Agreement (GLWQA) was first signed in 1972 between Canada and the U.S. The goal of the agreement was and remains to work in collaboration to restore and maintain the overall integrity of the Great Lakes Basin ecosystem. To date, major accomplishments have been made in the Niagara River including the establishment of modern regulatory frameworks and abatement programs, resulting in over 99% reduction of point source discharges. Significant reductions in toxic chemicals have been achieved including numerous contaminated sediment remediation projects. Through the cooperation of all government agencies, stakeholders and the active involvement of the public, the Niagara river has been successfully remediated from one of the most degraded places in North America to one of the most ecologically healthy and diverse areas in the world.

In order to acknowledge this achievement, representatives from Canada and the US who have in-depth knowledge of the river and the region formed a bi-national Steering Committee which has been working for over seven years to support the seeking Ramsar designations for

both sides of the Niagara River Corridor, with a hope for an eventual transboundary designation. The Environmental Advocacy Clinic from the University at Buffalo School of Law – SUNY have been supporting the efforts of the Steering Committee for these seven years.

The Ramsar Convention is a voluntary intergovernmental treaty, committed to encouraging education and sustainable development as a means of acknowledging global wetlands. The Convention uses a broad definition of wetlands; it is defined as any substrate that is at least occasionally wet, including lakes and rivers. The purpose of this treaty is to promote the conservation and wise use of water-based ecosystems through local, national, and international sustainable practices.

The Niagara River Corridor Ramsar Steering Committee has continued to oversee and provide technical advice and assistance with the Ramsar designation applications. The Steering Committee has included members from the Western New York Land Conservancy, the Niagara River Greenway Commission, the Niagara Parks Commission, the Niagara Peninsula Conservation Authority, the Regional Institute (University at Buffalo), the Environmental Sustainability Research Unit (Brock University), Niagara College, and member at large: Kerry Mitchell (formerly with the Canadian Consulate).

To qualify for Ramsar designation, the site must meet at least one of the following nine criteria.

1. Is representative, rare, or unique.
2. Supports vulnerable, endangered or threatened species.
3. Supports keystone or endemic species.
4. Supports species at a critical stage in their life cycles (migration, breeding).
5. Supports 20,000 or more waterbirds.
6. Supports 1% of the individuals in a population of one species of waterbird.
7. Supports a significant proportion of indigenous fish species.
8. An important food source, spawning area, nursery or migration path for fish.
9. Supports 1% of the individuals in a population of one species or subspecies of wetland-dependent non-avian animal species.

The Niagara River has been shown, based a coordinated expert analysis over several years, to meet all nine criteria. There are 2,400 Ramsar sites globally; only 1% of these sites meet all nine criteria. The Niagara River would be the first bi-national Ramsar site in North and South America (the America's).

What Ramsar Is:

- An honorary endorsement of ecological significance (an affirmation through designation of the global ecological importance the Niagara River already has).
- A voluntary, non-regulatory Convention treaty, signed by 171 countries including Canada and the United States. Canada signed in 1981 and currently has 37 Ramsar sites.
- A mechanism to encourage ecological sustainability through increased public awareness of the river's global contribution to biodiversity and ecological goods and services. (i.e. increased tourism and recreation).
- A mechanism to encourage higher international engagement and cooperation.

What Ramsar Is Not:

- An official wetland designation.

Ontario has a very specific understanding of the word wetland and its meaning. The Convention uses the term in its widest application to apply to any water related feature (in other words, it covers many varied land types that are wet). As a result, the term translates across many languages and cultures at its broadest definition to define water-based ecosystems globally.

- An instrument that creates or enhances regulatory obligations.

The designation will not impact, restrict or limit any user's ability to use the Niagara River whether for recreation, business or commerce. A Ramsar designation will not impose regulatory obligations or take away anyone's rights and ability to enjoy their properties.

Following a Ramsar site designation, the treaty imposes minimal expectations: site owners and managers are encouraged to promote conservation and other beneficial uses at the site, inform the Ramsar Secretariat if the ecological character of the site has changed, and update the Ramsar Information Sheet every 6 years. The treaty lists no sanctions for failure to do so, however. In fact, the treaty is clear, that these obligations cannot be legally enforced.

Although the Ramsar Convention takes a non-regulatory approach, it can still provide immense benefits to a region. A survey of existing Ramsar sites in 2007 done by Royal C. Gardner and myself, who both served on the U.S. National Ramsar Committee, found that although Ramsar designations are non-regulatory, they can still add great value to sites. The paper describes increased funding and other economically beneficial opportunities as the most commonly reported advantage. Additionally, international attention from a designation can increase science and tourism, bringing economic benefits to a region.

The designation on the United States site was completed in fall 2019. The Environmental Advocacy Clinic at University at Buffalo stands ready to support the Niagara River Ramsar Site Steering Committee in whatever help is needed to complete the next steps in pursuing the first transboundary Ramsar site designation in North America.

In summary, supporting the Niagara River Corridor as a Ramsar Wetland of International Importance brings minimal commitments and no regulations or enforceable legal obligations. Instead, this designation will shine a light on a significant natural resource, and help bring well-deserved recognition and economic benefits to the Niagara region.

If you have any other concerns about the legal aspects of a Canadian Ramsar designation, do not hesitate to contact me at kimconno@buffalo.edu.

Very Truly Yours,

A handwritten signature in blue ink, appearing to read 'KDC', with a long horizontal flourish extending to the right.

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<https://www.law.buffalo.edu/faculty/facultyDirectory/ConnollyKimDiana.html>