

The Niagara River Corridor, Water of International Importance: Ramsar Treaty Designation Under International, National, State, and Local Law

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THE ENVIRONMENTAL ADVOCACY CLINIC

Delivering access to justice while teaching UB law students to be excellent, ethical, and engaged lawyers by working closely with supervising attorneys to practice law in the real world. Our Student-Attorneys provide legal assistance to a variety of clients and contribute to the local community on a regular basis. The Environmental Advocacy Clinic ("EAC") focuses on state, national, and international environmental policy issues that have direct impacts on Western New York, as well as national and international implications. EAC's clients include environmental activist groups as well as other UB initiatives, like UB Sustainability.

OUR CLIENT: THE NIAGARA RIVER CORRIDOR STEERING COMMITTEE

The Steering Committee is comprised of local non-profit organizations and influential community members, including Jajeon Rose-Burney (Co-Chair of the Steering Committee, and Deputy Executive Director of the Western New York Land Conservancy), the Niagara Peninsula Conservation Authority, the Niagara River Greenway Commission, and Lynda Schneekloth (Professor Emeritus of the UB School of Architecture and Planning). The Clinic provides legal, policy, and high-level administrative assistance to the Steering Committee in support of the initial proposal to have the Niagara River and portions of its surrounding ecosystem nominated as a Wetland of International Importance under the Ramsar Convention.

WHAT IS "RAMSAR?"



The Ramsar Convention is a treaty between 168 nations that promotes international cooperation for the conservation of wetlands. The treaty was signed in Ramsar, Iran in 1971. The United States and Canada are signatories.

The Convention's **"Three Pillars"** are:

1. to nominate sites as Wetlands of International Importance,
2. to encourage wise and sustainable use of those wetlands, and
3. to engage in international cooperation between parties.

The nomination package must include: a Ramsar Information Sheet ("RIS") to explain how the site satisfies required biological and scientific criteria; the endorsement from all land owners within the proposed site boundary, including municipalities; an endorsement from the state environmental agency; and an endorsement from a Congressperson representing the proposed area. Once assembled, the nomination package will be sent to the U.S. Fish and Wildlife Service ("USFWS") for review. The USFWS will work with the U.S.-based National Ramsar Committee to review the package, and if the package is successful, it will be sent to the Ramsar Secretariat in Switzerland for another review. If the package is successful once more, its site will be nominated as a Wetland of International Importance.

COLLABORATIVE LEARNING

In 2014, after our client enlisted us as their counsel, the Environmental Advocacy Clinic students worked with the School of Architecture and Planning to determine key matters to the nomination process. The collaborative effort advanced the feasibility determination of the project and identified the underlying legal questions to the nomination.

UNDERLYING LEGAL QUESTIONS

1. Which Ramsar criteria, if any, does the Niagara River satisfy? Participating students used scientific data to identify which criteria the river and its ecosystem satisfied, and explained this in the Ramsar Information Sheet.
2. What is the best boundary for the site? Selecting an ideal project site boundary required consideration of scientific data and the interests of potential stakeholders.
3. Who owns the Niagara River? The presumed owner of the river is, "the Public!" Under New York law, the "public trust doctrine" guards the state's navigable waters and parks for the benefit of the public. *Friends of Van Cortlandt Park v. N.Y.C.*, 750 N.E.2d 1050 (N.Y. 2001).

Environmental Advocacy Clinic student attorneys have provided over **1,500 hours of service on this project** alone, and are committed to providing for those without access to justice. To learn more about the UB Law Clinics, visit <http://www.law.buffalo.edu/beyond/clinics.html>

9 CRITERIA FOR RAMSAR NOMINATION

- 1 IS REPRESENTATIVE, RARE, OR UNIQUE
 - 2 SUPPORTS VULNERABLE OR ENDANGERED SPECIES, OR THREATENED ECOLOGICAL COMMUNITIES
 - 3 SUPPORTS KEYSTONE OR ENDEMIC SPECIES
 - 4 SUPPORTS SPECIES AT A CRITICAL STAGE IN THEIR LIFE CYCLES (MIGRATION, BREEDING, NESTING)
 - 5 SUPPORTS 20,000 OR MORE WATERFOWL
 - 6 SUPPORTS 1% OF THE INDIVIDUALS IN A POPULATION OF ONE SPECIES OF WATERFOWL
 - 7 SUPPORTS A SIGNIFICANT PROPORTION OF INDIGENOUS FISH SPECIES
 - 8 IS AN IMPORTANT SOURCE OF FOOD, SPAWNING GROUND, NURSERY, AND/OR MIGRATION PATH FOR FISH
 - 9 SUPPORTS 1% OF THE INDIVIDUALS IN A POPULATION OF ONE SPECIES OF SUBSPECIES OF WETLAND-DEPENDENT NON-AVIAN ANIMAL SPECIES
- = THE U.S. SIDE OF THE NIAGARA RIVER SATISFIES 8/9 OF NECESSARY CRITERIA.
- THE CANADIAN SIDE OF THE NIAGARA RIVER SATISFIES 9/9 OF NECESSARY CRITERIA.



*Map is an artist rendering, and may not reflect the actual boundaries of the project

BI-NATIONAL TRANSBOUNDARY RAMSAR SITE

The Niagara River Corridor would be the first bi-national, transboundary Ramsar site in North America. A Transboundary Ramsar Site ("TRS") is an ecologically coherent wetland that extends across national borders, which requires the Ramsar site authorities in both countries to formally agree to collaborate in its management. Both parties must notify the Ramsar Secretariat of their intent to collaborate. This arrangement is merely an agreement and not a distinct legal status for the site.



PROJECT AREA

The project area contains the length of the Niagara River, from shore to shore, lake to lake, totaling 37 Square Miles of protected riparian areas. (20 sq. mi. in the U.S. and 17 sq. mi. in Canada)



Greenspace

Ramsar Boundary

FORT ERIE

BUFFALO

LAKE ERIE