

## **Environmental Awareness created by Global and Grassroots Cooperation; Understanding the Legal Implications of a Ramsar Designation**

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### **Introduction**

The Niagara River Corridor has become the 40th Ramsar site in the United States, and is set to become the first Trans-boundary Ramsar site in all of the Americas. The designation is the result of years of local and international cooperation. The interdisciplinary team involved carried out the delineation, information gathering, and advocacy phases of this project, creating the most complex Ramsar submission that the United States has ever had.

Ultimately, having the Niagara River Corridor designated as a Wetland of International Importance (*hereinafter*, Ramsar designation) under the Ramsar Convention does not introduce new obligations and burdens on development, nor does it impose obligations on local governments. The designation serves as both means of raising environmental awareness, and as a signifier of a commitment to the protection of wetlands and ecosystems. Ramsar itself relies on federal, state, and local processes to achieve its mission. However, the Ramsar designation can serve as an information arsenal for utilizing existing environmental regulations to their fullest extent. Finally, the new Ramsar Wetland Cities designation aims to elevate humans' interdependency on wetlands, and highlighting their economic, social, and cultural benefits.

### **Aspirational Goals of the Ramsar Convention**

Ramsar is about the wise use of wetlands through cooperation and awareness. The Convention's mission is "the conservation and wise use of all wetlands through local and national actions and international cooperation, as a contribution towards achieving sustainable development throughout the world."<sup>i</sup> Providing a framework for action, the convention aims to build a network of advocates through the exercise of designating a Wetland of International Importance. The process involved in a Ramsar designation itself is what begins to achieve the convention's goals and mission.

Participating Nations are in contract with each other under the guidelines laid out in the Article of the Convention.<sup>ii</sup> Each Contracting Party (Country) to the Ramsar Convention has made, among others, a commitment to:

- designate suitable wetlands for inclusion on the List of Wetlands of International Importance;

- formulate and implement planning to promote conservation of listed wetlands and as far as possible the wise use of all wetlands;
- arrange to be informed at the earliest possible time if the ecological character of any listed wetland has changed, is changing or is likely to change as a result of technological developments, pollution or other human interference, and report any such changes to the Ramsar Convention;
- promote the conservation of wetlands and waterfowl by establishing nature reserves on wetlands;
- encourage research and exchange of data and publications;
- endeavor to increase waterfowl populations;
- promote the training of personnel in the fields of wetland research and management;
- consult with other contracting parties to the Convention to review and promote the implementation of the Convention; <sup>iii</sup>

Many of the commitments represent concepts to strive toward. The first commitment is to designate suitable wetlands for inclusion on the list of Wetlands of International Importance. In pursuit of this, however, many of the other commitments can be achieved. For instance, during the designation of the Niagara River Corridor, a conservation plan was produced as part of the submission under which a responsible entity will maintain the site's ecological character. Other activities that further the treaty's goals include the implicit promotion of conservation, research, and data production were all carried out, further adding to the global repository of wetland information.

### **Designation Criteria and Information Gathering**

Ramsar designation applicants must gather a wealth of information in order to successfully navigate the process. Applicants must apply to both the Fish and Wildlife Service with the U.S. Federal Government, and the Ramsar Convention Secretariat.

For the U.S. submission process, applicants must secure: 1) A cover letter to the Director of the FWS describing how the proposed site meets at least one Global Ramsar Convention Criteria; 2) A Completed Ramsar Information Sheet (RIS); 3) A letter of endorsement from each of the landowners; 4) A consultation letter for the site's listing from the respective state fish & wildlife agency; and 5) A commitment to maintain the site's ecological character, meet the reporting requirements, and maintain responsive contacts for the site.

Prolific and detailed information is provided in the RIS to satisfy Ramsar's eligibility criteria. This document helps the Ramsar Convention Secretariat determine the noteworthy characteristics of the wetland under consideration, such as: flora and fauna

typologies, diverse ecological features, social and cultural values. To qualify for Ramsar designation the proposed site must meet at least one of the nine criteria. The site must

1. Contain a representative, rare, or unique example of a natural wetland type found within the appropriate biogeographical region.
2. Support vulnerable, endangered or threatened animal or plant species.
3. Support keystone or endemic animal or plant species important for maintaining the biological diversity of particular biogeographic region.
4. Support species at a critical stage in their life cycles (migration, breeding).
5. Support 20,000 or more waterfowl.
6. Support 1% of the individuals in a population of one species of waterfowl.
7. Support a significant proportion of indigenous fish species.
8. An important food source, spawning area, nursery or migration path for fish.
9. Support 1% of the individuals in a population of one species or subspecies of wetland-dependent non-avian animal species. (Species other than birds).<sup>iv</sup>

The Niagara River Corridor's RIS resulted in a detailed 98+ pages. The Niagara River meets all 9 criteria on the Canadian Side and 8 of 9 on the U.S. Side. This is a rare designation in that only 35 of (approx. 1%) of all global Ramsar sites meet all nine criteria. Notably, this document must be kept current, and updated every six years after a site is successfully designated. Thus, there should always be an active repository of information regarding Wetlands of International Importance that may be used for advocacy purposes.<sup>v</sup>

### **Federal and State Law Help Further Ramsar's Goals**

In many ways, the matrix of federal, state, and local regulations, and the Ramsar Convention mutually reinforce each other. To start, many environmental protection and conservation legal tools had already been successfully used to protect the Niagara River Corridor. In turn, the Ramsar designation information gathering process confirmed that restoration and conservation efforts have resulted in a healthy ecosystem with good biodiversity. What's more, Ramsar now provides an arsenal of information for future use.

The Buffalo Niagara area has a long history of environmental degradation. However, the area is on the rebound ecologically. Through the effort of many, federal and state law has been effectively used to begin to heal our environmental wounds. Many times, the Migratory Bird Treaty Act has been used to slow and stop development that would harm waterfowl. The Clean Water Act has drastically helped to improve our water quality. As an example, it has even been used to halt sewer overflow discharge.

On the state level, New York's environmental cleanup programs are also transforming many of the region's polluted sites. Notably, the state's brownfield clean-up program has helped to remediate many post-industrial sites, and stop them from leeching pollutants into the water supply. Many of these sites sit adjacent to bodies of water, leading to improvements in water quality.

One of the most important laws that help achieve Ramsar's goals of data collection, research, and conservation is New York State's State Environmental Quality Review Act (SEQR). Regulated by New York's Department of Environmental Conservation (DEC), SEQR requires all state and local government agencies to consider environmental impacts equally with social and economic factors during discretionary decision-making. SEQR applies to all state or local government agencies including districts and special boards and authorities whenever they must approve or fund a privately or publicly sponsored action. It also applies whenever an agency directly undertakes an action. Applicants who seek project approval or funding may be responsible for preparing an Environmental Impact Statement<sup>vi</sup>

Whenever a significant project is being considered, the SEQR process will be used to determine the negative environmental impacts associated with it. Throughout the document, wetlands are continuously cited as an area of concern. In the case that wetlands are impacted by a project, significant data is then required before the project may proceed. Now that there is so much publically available data on the Niagara River Corridor Ramsar site, should it be threatened by development at any of its reaches, the RIS provides all the necessary information to form the foundation of successful advocacy.

These measures have helped pave the way for restored ecological habitat, recreational opportunities, and enhanced appreciation of the environment. Because of the matrix of federal, state, and local regulation aimed at cleaning up and regulating our waters was it possible to get to the point of Ramsar Designation. Without the overlay of these laws, it wouldn't be possible to have pursued any parts of the convention in the first place.

For more information on laws and institutions necessary to achieve the goals of the Ramsar Convention, please visit:

<https://www.ramsar.org/sites/default/files/documents/pdf/lib/hbk4-03.pdf>

### **Beyond Ecological Importance: The Economics of Wetlands**

The recognition of the diverse values of wetlands is essential to their wise use, and to ensuring that their role is reflected in policy. Ramsar's Strategic Plan 2016-2024 acknowledges the importance of partnerships in enhancing the implementation of the Convention. Paragraph 42 reads: "The wise use of wetlands and their resources will ultimately involve a range of actors well beyond those responsible for the management and maintenance of Ramsar Sites and other wetlands. This holds at local, national,

regional and global levels where existing partnerships [...] should be strengthened and new partnerships with civil society and the business sector forged [...].

<https://www.ramsar.org/about/partnerships>

While many have begun to recognize that wetlands have numerous and widespread benefits, for others these benefits are taken for granted and more work must be done in raising awareness. As a common or public good (depending on the mode of consumption of the wetland), the benefits of wetlands are largely non-excludable and rivalrous. Because of this status, and the largely passive nature of their environmental services, our society's reliance on wetlands' services do not translate economically and go unconsidered. [<http://www.openness-project.eu/sites/default/files/SP-Public-Goods.pdf>] For many, using the language of economics to describe the value of wetlands can be an effective tool for conservation efforts, and help forge the necessary partnerships to do so.

Ramsar designation is becoming an important tool in messaging the economics of wetlands to the public. The new "Ramsar Wetland City Accreditation," is helping cities to recognize benefits and services of wetlands provide to their urban well-being. This next-level Ramsar designation goes further than its predecessor by focusing on the human component of the ecosystem analysis, and highlighting our dependence on our ecosystem's health. Thankfully, these efforts are already paying off, and private sector actors are adhering to policies that prevent them from contributing to the degradation and destruction of Ramsar sites. For more information on how humans receive services and benefits from Wetlands, please follow this link:

[https://www.ramsar.org/sites/default/files/urban\\_wetlands\\_en.pdf](https://www.ramsar.org/sites/default/files/urban_wetlands_en.pdf)

The Ramsar Wetland City Accreditation is a new initiative that promotes further recognition of our economic interconnectedness with our water systems. "Wetland City Accreditation...will encourage cities in close proximity to and dependent on wetlands, especially Wetlands of International Importance, to highlight and strengthen a positive relationship with these valuable ecosystems, for example through increased public awareness of wetlands and participation in municipal planning and decision-making."

The waters represented by the Niagara River Corridor provide so much of our societal wellbeing.

When many other bodies of water are frozen, the Niagara stays open throughout the winter, attracting migrant birds from across the planet. Wetlands deliver many economic services to us, such as: flood mitigation, drinking water replenishment, water quality improvement, electricity, a source of employment and cultural tourism.

Wetlands are vital to human interaction with water. Wetlands absorb flood waters. During storms, rivers, ponds, lakes and marshes store heavy rainfall. Further, wetlands filter the water that seeps into ground water aquifers, which helps to replenish this

important water source. Finally, the silt-rich soil and abundant plant vegetation found in wetlands functions as a water filter that absorbs harmful toxins, agricultural pesticides and industrial waste from water. In our region, over a million people on both sides of the border get their freshwater from the Niagara River.

While specifics are not available on our region's reliance on these wetland water services from the Niagara River Corridor, other studies can indicate just how economically valuable those services are. Using the avoided cost of outsourcing the water that is currently provided for free by their water system as a proxy, the Te Papanui Conservation Park provides the Otago region of New Zealand ecosystem services valued at around \$96 million US dollars for a region of around 230,000 people.

The electricity generated from the river powers millions of homes and businesses. (Ramsar Niagara RIS) The amount of electricity the power plants at Niagara Falls have the capacity to output is close to 4.9 million kilowatts. That's enough to power 3.8 millions homes. On the US side, plants have a capacity of roughly 2.7 million Kilowatts, while the Canadian side's combined capacity is close to 2.2 million kilowatts.

<https://beta.nyfalls.com/niagara-falls/faq-4/>

With Niagara Falls undoubtedly as the region's anchor attraction, Tourism is a growing industry in the Buffalo Niagara region. Tourism is targeted growth sector of Buffalo Billion and is a \$2.7 billion industry, supporting 53,168 jobs throughout Buffalo Niagara.

<https://www.wycochamber.org/files/mgQwaU/NYS%20Tourism%20Impact%20-%20Greater%20Niagara%202017.pdf>

Ecotourism in particular has been growing fast in the area. Dealing with a long history of pollution, Buffalo had become disconnected with its natural environment. However, over the last decade or so, as the waters have become cleaner, adventurous types have been making inroads at reconnecting us to our surroundings. The Ramsar designation of the Niagara River Corridor in particular has the ability to bolster tourism further. Through promotion of the Ramsar site, it would attract more people with ecotourism interests to see a true gem in the U.S.'s ecosystem. These same people would also spend significantly in the local economy during their stay. But promoting the region's rich natural heritage must be done with a sense of responsibility.

<https://www.wgrz.com/article/news/ecotourism-comes-to-the-niagara/272958845>

Highlighting our vast dependency on wetlands to perform vital economic functions could expand the conversation to those with value systems that place lower priority on inherent values. Making these entities take notice will be integral in forming the necessary partnerships to protect wetlands. "Financial institutions and the private sector in general have a key role to play and perhaps the secret to reversing the rapid decline in our wetland systems is finding the sweet spot where the world of conservation and finance meet."

In fact, private actors are beginning to robustly react, and make voluntary policy choices that protect wetlands. “Barclays was the first to change its public policy, stating that it would no longer fund harmful projects in Ramsar wetlands. Then Standard Chartered went a major step further, announcing that it would “not provide financial services to clients that have operations that are located within, or significantly impact negatively upon wetlands designated under the Ramsar Convention.”<sup>vii</sup>

For more on integrating multiple wetland values into decision making, follow this link:  
[https://www.ramsar.org/sites/default/files/documents/library/rpb\\_values\\_of\\_wetlands\\_e.pdf](https://www.ramsar.org/sites/default/files/documents/library/rpb_values_of_wetlands_e.pdf)

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<sup>i</sup> <https://www.ramsar.org/about/the-ramsar-convention-and-its-mission>

<sup>ii</sup> Convention on Wetlands of International Importance especially as Waterfowl Habitat. Ramsar, 2.2.1971 as amended by the Paris Protocol of 3.U.1982 and the Regina Amendments of 28.5.1987.

<sup>iii</sup> Supra note ii, articles 2-6.

<sup>iv</sup> [https://www.ramsar.org/sites/default/files/documents/library/ramsarsites\\_criteria\\_eng.pdf](https://www.ramsar.org/sites/default/files/documents/library/ramsarsites_criteria_eng.pdf)

<sup>v</sup> <https://www.fws.gov/international/pdf/us-ramsar-application-requirements.pdf>

<sup>vi</sup> <https://www.dec.ny.gov/permits/6208.html>

<sup>vii</sup> <https://medium.com/@WWF/rays-of-hope-for-ramsar-sites-big-banks-are-finally-recognizing-that-its-wrong-to-wreck-the-c54d9c6eb07d>