

Great Lakes—St. Lawrence River Water Resources Regional Body
Meeting Summary
Conference Call Meeting
December 8, 2009
2:00 p.m. EDT

Notice:

Notice of the meeting was provided to the public through the Great Lakes Information Network's distribution list on November 6, 2009. Notice was also posted to the Great Lakes-St. Lawrence River Water Resources Regional Body (Regional Body) website at www.glsregionalbody.org.

A notice was provided through the same means on December 1, 2009 announcing that the meeting agenda, draft resolutions and materials to be discussed were available at www.glsregionalbody.org.

Call of Meeting:

2:00 p.m. EDT—The meeting was called to order by Charlie White on behalf of Ron McAhron, designee of Regional Body Chair, Governor Mitch Daniels.

Roll Call:

The following Regional Body members, constituting a quorum, were present:

Illinois (designee of Governor Pat Quinn): Gary Clark, Director, Office of Water Resources, Illinois Department of Natural Resources; Daniel Injerd, Manager, Lake Michigan Management Section, Office of Water Resources, Illinois Department of Natural Resources.

Indiana (designee of Governor Mitch Daniels): Charlie White¹, on behalf of Ron McAhron, Deputy Director, Indiana Department of Natural Resources.

Michigan (designee of Governor Jennifer Granholm): Ken DeBeaussaert, Director, Michigan Office of the Great Lakes.

Minnesota (designee of Governor Tim Pawlenty): Kent Lokkesmoe, Director, Division of Water, Minnesota Department of Natural Resources; Jim Japs, Deputy Director, Division of Water, Minnesota Department of Natural Resources.

New York (designee of Governor David A. Paterson): Don Zelazny, Great Lakes Programs Coordinator, New York State Department of Environmental Conservation.

Ohio (designee of Governor Ted Strickland): Sean Logan, Director, Ohio Department of Natural Resources.

Ontario (designee of Premier Dalton McGuinty): Dan Marinigh¹, on behalf of Kevin Wilson, Assistant Deputy Minister, Ontario Ministry of Labour.

Pennsylvania (designee of Governor Ed Rendell): Cathleen Curran Myers, Special Assistant for PA Recovery, Pennsylvania Department of Environmental Protection.

Québec (designee of Premier Jean Charest): Yvon Maranda, Chef de service, Service de la gestion intégrée de l'eau, Ministère du Développement durable, de l'Environnement et des Parcs.

¹ Signed proxy forms for individuals participating on behalf of official member designees are available upon request.

Wisconsin (designee of Governor Jim Doyle): Todd Ambs¹, on behalf of Matt Frank, Secretary, Wisconsin Department of Natural Resources.

Actions Taken

Review of September 22, 2009 Regional Body meeting minutes.

A motion was made by Mr. Logan of Ohio to formally approve the minutes of the September 22, 2009, Regional Body meeting. The motion was adopted without objection.

Reports

Council of Great Lakes Governors Water Resource Managers Initiative

Mr. White of Indiana noted that, in support of the commitments made by the Governors and Premiers in the Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement (Agreement) related to water use impacts, the Council of Great Lakes Governors has launched The Great Lakes Water Resource Managers' Initiative. This Initiative is a collaboration with the Great Lakes States and Provinces, and project partners including The Nature Conservancy. Generous support has been provided by the Joyce Foundation.

David Naftzger, Executive Director of the Council of Great Lakes Governors, and Executive Director of the Regional Body Secretariat, reported that a great deal of work has been performed over the last few months. In particular, a resource kit was created, and a workshop scheduled for January 13-14 in Chicago.

Procedures Committee

Mr. White of Indiana noted that pursuant to Article 401, paragraph 1 of the Agreement, the Regional Body may establish its own administrative practices and procedures. He further noted that, to that end, the Regional Body has created a Procedures Committee.

Peter Johnson of the Regional Body Secretariat reported that the Procedures Committee, which is chaired by Mr. White of Indiana, had been meeting via conference call since the spring of 2009. The Procedures Committee has met jointly throughout the process with the Great Lakes-St. Lawrence River Basin Water Resources Council's (Compact Council) Rules & Regulations Committee. The Joint Committee has made substantial steps forward in creating recommendations, including the creating of draft "Contents of an Application" documents. It was further reported that early drafts of those documents have been shared with the Joint Committees' Advisory Panels, Resource Groups and Observers, as well as Tribes and First Nations. Comments have been received from those organizations, and changes had been made accordingly.

Mr. Johnson also reported that work has begun on drafting procedures for the Regional Body and Compact Council to follow when a Proposal comes before the bodies for Regional Review or Compact Council approval.

Council of Great Lakes Governors Water Use Information Committee.

Mr. White of Indiana began by noting that in support of the commitment made by the Governors and Premiers in the Agreement related to water use information, the Council of Great Lakes Governors has coordinated a Water Use Information Initiative. Jim Japs of the Minnesota Department of Natural Resources and Peter Hulsman of the Ontario Ministry of Natural Resources have co-chaired this initiative. Mr. Japs was asked to provide further information on the initiative.

Mr. Japs reported on the history of the development of water use reporting protocols. He noted that the Committee met with and invited the input of an Advisory Panel of regional stakeholders and consulted with Tribes and First Nations; invited public comment from March 25-April 27, 2009, on draft interim State/Provincial reporting protocols to the regional water use database; and, revised the draft protocols following a review of the comments. He also reported that the Committee forwarded its recommendations for water use reporting protocols to the Regional Body and Compact Council on October 15, 2009.

Provincial/State Reports: Water Management; Conservation and Efficiency; Baseline. Each Regional Body designee provided an update on their jurisdiction's efforts to implement the Agreement including the Great Lakes—St. Lawrence River Basin Water Resources Compact (Compact) legislation or other mechanisms as appropriate.

In addition, each of the States and Provinces was asked to report on the status of the: 1) Water Management Program Report; and, 2) Water Conservation and Efficiency Program Report. The States' reports were due on December 8, 2009, pursuant to the terms of the Compact.

Finally, each of the States was to report by December 8, 2009, all existing Withdrawals, Diversions and Consumptive Uses that existed as of December 8, 2008 ("the baseline"). All States submitting baseline information indicated that such submissions were subject to corrections and amendments.

Illinois—Illinois submitted both reports.

With regard to the reports, it was noted that Illinois manages its program pursuant to the terms of the U.S. Supreme Court decree entered under *Wisconsin et al. v. Illinois et al.* As part of that program, the State has a robust conservation program, with a full regulatory standard on water loss. Limited diversions are allowed to meet the needs in the region. The program also addresses practices for end users via building codes and ordinances which have improved overall management.

While the State continues to run its existing programs, comprehensive planning efforts have begun for Northeast Illinois. A working group has developed a list of significant practices for the 11-county northeastern Illinois region.

Illinois did not submit baseline information because it is not required to do so under the terms of the Compact. A letter was sent from the State noting such.

Indiana—Indiana submitted both reports.

Mark Basch from the Indiana Department of Natural Resources noted that the conservation program in Indiana is voluntary. The Department is now working with the State Natural Resources Commission on developing rules. Public outreach has been an important component of this program and mailers have been sent the last two years to the public and regulated community.

Registration of water uses has been required in the State since 1985, has now been compiled for the Great Lakes Basin, and was submitted earlier today for the purposes of establishing a baseline for Indiana.

Michigan—Both reports were submitted.

With regards to the State's water management program, it was noted that a new water withdrawal assessment tool has come online and will be used for managing the State's water resources.

With regard to the conservation and efficiency program, it was noted that the State is in the process of developing objectives consistent with the Basin-wide goals and objectives. The State is working with an advisory committee to develop the State objectives.

Baseline information was submitted to the Compact Council and the Regional Body.

Minnesota—Both reports were submitted.

It was noted that the State of Minnesota has had a water management program in place since 1937. Conservation practices have already been incorporated into that program.

Baseline information was also submitted. It was noted that Minnesota requires management for all new or increased withdrawals over 10,000 gallons per day. It was also noted that active mining in the Iron Range Mountains was included as part of the report.

New York—Both reports were submitted.

As the State developed its reports, it relied extensively on existing program authorities. It was noted by Mr. Zelazny that the thresholds in the State are consistent with the terms of the Agreement and Compact.

Baseline information was also submitted to the Compact Council and the Regional Body.

Ohio—Both reports were submitted

It was noted that a 28-member advisory panel has been formed in the State to work on implementing the Compact. It was also noted that the conservation and efficiency program focuses on education and promotion of voluntary conservation but mandatory provisions will come into place in the event of a level 4 drought.

Baseline information was also submitted to the Compact Council and the Regional Body. The baseline information essentially consists of current registration data but efforts are underway to amend and correct the submitted data through the development of regulations.

Ontario—It was noted that Ontario is not required to yet submit its Water Management Report and Water Conservation and Efficiency Program Report because the relevant sections of the Agreement have not yet come into force. However, the Province of Ontario has submitted both reports voluntarily.

The reports were founded on several key pieces of legislation that address flows, levels, riparian rights, etc... It was also noted that all withdrawals over 50,000 litres per day require a permit.

The Province is currently developing intra-basin transfer rules in connection with a conservation and efficiency program.

Baseline information was not submitted, as the relevant sections of the Agreement have not come into force.

Pennsylvania— Both reports were submitted.

The water management program in the Commonwealth of Pennsylvania is built on existing laws including laws passed in 1905 and 1984. In 2002, a water use planning act led to reporting of all withdrawals over 10,000 gallons per day.

It was also noted that the Susquehanna River Basin Commission is serving as a consultant for the Commonwealth's water resources technical service center. The Commonwealth is also working with the Pennsylvania Environment Council to work with stakeholders to develop conservation and efficiency practices.

It was further noted that the Pennsylvania statute that passed the Compact includes a detailed process for establishing the baseline. Pennsylvania reported its baseline to the Regional Body and Compact Council. The report included 98 users.

Québec— It was noted that Québec is not required to yet submit its Water Management Report and Water Conservation and Efficiency Program Report because the relevant sections of the Agreement have not yet come into force. However, the Province of Québec has submitted both reports voluntarily.

The Province is currently working on developing conservation and efficiency goals and objectives.

Baseline information was not submitted, as the relevant sections of the Agreement have not come into force.

Wisconsin—Both reports were submitted.

The State is still in the process of developing water use reporting processes, but Compact implementing legislation passed in 2008 requires that all withdrawals over 100,000 gallons per day be reported.

It was also noted that the State is developing rules for a State water conservation and efficiency program. The relevant statute is lengthy and substantial direction is included as to how such a program should be developed. It is anticipated that rules will be developed by next year and will include both mandatory and voluntary provisions.

It was noted that there was an extensive undertaking to set the preliminary baseline. It was further indicated that while the baseline was reported it is still a work in progress and subject to extensive revision and correction.

Mr. Naftzger closed out the reports by noting the Water Management Program reports and Water Conservation and Efficiency Program reports would be posted to the Regional Body and Council of Great Lakes Governors websites. The baseline information will also be posted to the new Compact Council website which will be going live at a future date.

Opportunity for public comments.

Members of the public were given an opportunity to ask questions or provide comments.

- John Jackson, Great Lakes United: Mr. Jackson, speaking on behalf of Great Lakes United and other environmental non-governmental organizations indicated that creating model water conservation policies and measures is critically important and these groups would like to help in their development. He also noted that Great Lakes United and its partners are hoping to have a draft in January that would be made available to the Regional Body members. He also indicated that they were willing to assist with future impact assessments.
- Ed Glatfelter, Alliance for the Great Lakes: Mr. Glatfelter provided comments regarding pending Resolution #13, stating that while he recognized and appreciated the interim nature of the new reporting protocols, he did not feel that the reporting of aggregate data was sufficient and was in conflict with Section 4.1.1 of the Compact.

Mr. Glatfelter also indicated that he thought that the Water Conservation and Efficiency Program reports should also include performance measure and how

they are met and noted that the submitted reports did not include them. He indicated that in the future it would be important to include that information.

- Sara Gossman, National Wildlife Federation: Ms. Gossman indicated that she found the Water Management Program Review documents to be very helpful. She also indicated that she would like to see such reports earlier in the future so that a discussion could be held with the stakeholder community to solicit input as to the level of detail that would be required for all such future reports.

Ms. Gossman also indicated that with regard to the Water Use reporting protocols, the Alliance for the Great Lakes and the National Wildlife Federation also submitted comments regarding the aggregate reporting issue Mr. Glatfelter raised, and asked that they be reconsidered at this time.

Old Business

Chair's proposed membership of Advisory Committee, Resource Group and Observers.

Mr. White of Indiana noted that during its June 17 meeting, and pursuant to the terms of Article 401 of the Agreement, the Regional Body adopted Resolution Number 11 which created an Advisory Committee. The Resolution directed the Chair to develop a list of recommended members and to coordinate this work with the Compact Council Chair. Accordingly, and in coordination with the Compact Council Chair, Mr. White recommended that invitations be sent to the prospective members of the Advisory Committee, Resource Group and Observers as listed in a document previously distributed to the Regional Body members, and which was available on the Regional Body's website. Mr. Zelazny of New York moved that the recommendations be accepted and the motion carried without objection.

New Business

Adoption of interim water use reporting protocols.

Mr. White of Indiana indicated that the first order of new business was *Resolution #13—Adoption of Water Use Reporting Protocols*. He noted that the Regional Body previously heard a report from the Co-Chairs of the Council of Great Lakes Governors' Water Use Information Committee that drafted recommended protocols for consideration. He further noted that the resolution before the Regional Body would adopt the recommended protocols.

Mr. Logan of Ohio moved that Resolution #13 be adopted and the motion was approved without objection.

Consideration of Regional Body Fiscal Year 2010 third & fourth quarter (July 1, 2009-June 30, 2010) budget.

Mr. White of Indiana noted that the next order of new business was the discussion of *Resolution #14—Adoption of Fiscal Year 2010 Budget—Third and Fourth Quarters (January 1-June 30, 2010)*. He further noted that the proposed budget and a resolution adopting the budget were previously distributed to the Regional Body and were posted to the Regional Body's website. Mr. Naftzger provided a brief overview of the budget.

Mr. Injerd of Illinois moved that the resolution be adopted. The motion was adopted unanimously pursuant to roll call vote.

Illinois—Yes
Indiana—Yes
Michigan—Yes
Minnesota—Yes
New York—Yes
Ohio—Yes
Ontario—Yes
Pennsylvania—Yes
Québec—Yes
Wisconsin—Yes

Leadership Transition--Selection of Vice Chair, announcement of Chair (Michigan).

As stated in Agreement Article 401 paragraph 4 subsection b, “the Vice Chair shall be chosen by drawing lots from amongst those members who have not yet served [as Chair or Vice-Chair].”

Mr. White of Indiana noted that pursuant to the terms of the Agreement, the Regional Body Vice Chair (Governor Granholm of Michigan) will become Chair on December 13, 2009. He also noted that Governor Granholm has designated Ken DeBeaussaert, Director of the Michigan Office of the Great Lakes, to serve in this role.

Mr. White then announced that a drawing would take place to determine who would serve as Regional Body Vice Chair beginning on December 13, 2009. Pursuant to this term of the Agreement, the Chair recognized David Naftzger. The drawing took place among those that have not already served, including the Governors of Illinois, New York, Pennsylvania and Wisconsin, and the Premier of Québec. Mr. Naftzger certified that lots for each of the eligible States and Provinces were placed in a container. Québec’s lot was drawn by Mr. Naftzger from the container. Accordingly and pursuant to the terms of the Agreement, Québec Premier Jean Charest will serve as Regional Body Vice-Chair from December 13, 2009-December 13, 2010, and the Premier of Québec will in turn serve as Regional Body Chair from December 13, 2010-December 13, 2011.

Other Business

Ms. Myers of Pennsylvania stated that she had received a letter from members of the stakeholder community asking that the Regional Body commit to meeting face-to-face at least once a year. It was noted that the other Regional Body members had received similar letters. While it was noted that due to budget constraints, teleconference meetings of the Regional Body and Compact Council may be required at this time, an effort should be made to meet face-to-face when resources become available.

Accordingly, Ms. Myers made the following motion:

“In order to facilitate public participation and transparency, the Regional Body (Compact Council) will endeavor to hold an annual in- person meeting, reserving its discretion to meet by telephonic means as may be necessary or appropriate, and will endeavor to obtain resources for that purpose.”

The motion was seconded by Mr. Ambs of Wisconsin. Mr. Zelazny of New York asked if the motion would represent a commitment to meet during the next fiscal year. In response, Ms. Myers stated that the motion represents an affirmation and goal, not a commitment, to meet face-to-face in the future when resources become available. Mr. Ambs of Wisconsin noted that budget constraints served as the biggest impediment for meeting face-to-face, but believed that if the constraints were not present, an effort should be made to meet face-to-face.

The Chair called for a vote on the motion:

Illinois—Yes
Indiana—Yes
Michigan—Yes
Minnesota—No
New York—Yes
Ohio—Yes
Ontario—Yes
Pennsylvania—Yes
Québec—Yes
Wisconsin—Yes

Adjournment

A motion was made by Mr. Maringh of Ontario to adjourn. The motion carried without objection. The next meeting of the Regional Body will be set and noticed at a future date.

The full text of the materials discussed at the meeting are available online at www.gslsregionalbody.org.