

Great Lakes—St. Lawrence River Water Resources Regional Body
Meeting Summary
December 7, 2012
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 8, 2012. Notice was also posted to the Great Lakes-St. Lawrence River Water Resources Regional Body (Regional Body) website at www.glsregionalbody.org. The notice included an announcement that the meeting agenda, draft resolutions and materials to be discussed during the meeting were available on the Regional Body's website. Call-in information was also posted to the front page of the Regional Body website.

Call of Meeting:

2:00 p.m. EDT—The meeting was called to order by Duke Adams¹ on behalf of Kelly Heffner, Deputy Secretary for Water Management, Pennsylvania Department of Environmental Protection. Ms. Heffner is the designee of Regional Body Chair, Governor Tom Corbett.

Roll Call:

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

Illinois (designee of Governor Pat Quinn): Daniel Injerd, Chief, Lake Michigan Management, Illinois Department of Natural Resources.

Indiana (designee of Governor Mitch Daniels): Ron McAhron, Deputy Director, Regulatory Affairs, Indiana Department of Natural Resources.

Michigan (designee of Governor Rick Snyder): Grant Trigger, Michigan Cleanup Manager, RACER Trust. Ms. Lynelle Marolf, Deputy Director of Michigan's Office of the Great Lakes also participated in the meeting.

Minnesota (designee of Governor Mark Dayton): Dale Homuth, Conservation Assistance and Regulatory Program Manager, Minnesota Department of Natural Resources; and, Julie Ekman, Supervisor Water Permit Programs, Minnesota Department of Natural Resources.

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

Ohio (designee of Governor John Kasich): Ted Lozier¹ on behalf of James Zehringer, Director, Ohio Department of Natural Resources.

Ontario (designee of Premier Dalton McGuinty): Eric Boysen¹ on behalf of Kevin Wilson.

Pennsylvania (designee of Governor Tom Corbett): Duke Adams¹ on behalf of Kelly Heffner, Deputy Secretary for Water Management, Pennsylvania Department of Environmental Protection.

Québec (designee of Premier Pauline Marois): Marcel Gaucher, Director,

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

Direction des politiques de l'eau, Ministère du Développement durable, de l'Environnement et des Parcs (MDDEP).

Wisconsin (designee of Governor Scott Walker): Eric Ebersberger¹ on behalf of Cathy Stepp, Secretary, Wisconsin Department of Natural Resources.

Actions Taken

Review of June 7, 2012, Regional Body meeting minutes.

A motion was made by Mr. Ebersberger to formally approve the minutes of the June 7, 2012, Regional Body meeting.

The Chair indicated that unless there was an objection, he would assume that all members' votes were in the affirmative. Hearing no objection, the motion to adopt the June 7, 2012, meeting minutes was adopted.

Reports

State and Provincial updates on implementation of the Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement (Agreement).

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) or other mechanisms as appropriate.

Pennsylvania

Mr. Adams reported that Pennsylvania continues to achieve water conservation and efficiency goals through voluntary efforts and statewide regulation. Work is ongoing in developing two critical area resource plans, which are based on involvement from local residents. Although they are outside of the Great Lakes-St. Lawrence River Basin, these plans will provide a great resource for the Commonwealth and the entire region.

The State continues to develop its Water Resource Technical Assistance Program, in a partnership with the Pennsylvania Environmental Council and the Susquehanna River Basin Commission. More information can be found at: www.savewaterpa.org.

In 2013, the Pennsylvania Department of Environmental Protection will seek assistance from Pennsylvania Sea Grant and Penn State University for a water conservation and efficiency outreach initiative.

Illinois

Mr. Injerd reported that in October 2012 the US Army Corps of Engineers certified Illinois' Great Lakes diversion at 3,002 cubic feet per second (cfs) for 2008 and 3,135 cfs for 2009. Pursuant to the US Supreme Court Decree, both years are below the court limit. In both years, precipitation was well above average which is notable since above average rainfall would be expected to increase quantities diverted. Domestic water supply clearly continues a general downward trend. The State now has a water surplus of 1000 cfs as it pays off its water debt.

Preliminary data for 2010-2012 indicates the diversion will remain below the court limit. In the past year, a time of significant drought, the diversion likely will be the lowest since the construction of the Chicago Sanitary & Ship Canal in 1900.

Mr. Injerd reported that in 2011, domestic water supply was less than 900 million gallons per day, which represents a major drop since the 1990s and is pushing the diversion below the court limit. Preliminary data for 2012, again an extreme drought year, suggests that with only 28 inches of rain domestic water use increased only by 2.3 percent. In 2009, pumpage was higher in a wet year. This is an encouraging sign for a drought year. Major factors in decreasing water use include State and organizational efforts to promote water conservation and efficiency, and dramatically increased water rates.

Finally, in the last year, Illinois developed proposed rule changes. The State submitted its report to the Regional Body and Compact Council, and has every intention of pursuing rule changes to strengthen the program.

Indiana

Mr. McAhron reported that Indiana's rule making process has moved through the Department of Natural Resources, and the previously adopted temporary rules are now permanent. To date, there's been little feedback or input other than on the general license provisions. The proposed rules focus on the largest group of users: irrigators, who account for about 60% of Basin users in Indiana. Information on rule definitions and schedules can be found at: www.in.gov/nrc/2377.htm. Additionally, the water use reporting portal is online, and should enable annual reporting.

Indiana's conservation and efficiency efforts continue to focus on outreach and increased understanding, and achievable and reasonable goals.

Michigan

Mr. Trigger reported that Michigan's water use program centered on part 327 of NRPA, which establishes water withdrawal and assessment programs for the Great Lakes and other sources. The Michigan Department of Environmental Quality administers and requires conservation and efficiency efforts to be implemented as part of a withdrawal application. The State may also deny the expansion of public water supply if conservation and efficiency efforts would allow increased available supply. Others have been denied on the basis that other feasible and prudent actions might have been taken.

The 327 program is also a model for Compact criteria, and is at the center of the review process. Monitoring work is ongoing. Michigan is assessing current capacity and future demands, and engaging in stakeholder participation.

Mr. Trigger asked Ms. Marolf to provide a brief report on Michigan's activities.

Ms. Marolf reported that the Michigan legislature has made \$500,000 in funds available for implementation of the State water use program. She also reported that Governor Snyder recently delivered a special message on energy and the environment, which

includes a commitment to taking an ecosystem approach. Governor Snyder also mentioned his intention to take leadership on many issues as Co-chair of the Council of Great Lakes Governors. The Michigan Office of the Great Lakes is developing a water use strategy to complement the State's land use strategy, and is engaging the public in developing the plan.

Minnesota

Mr. Homuth reported that Minnesota notified the Regional Body that it has met all Agreement requirements to date. The State enacted the Compact in 2007 along with other State water laws. The water conservation and efficiency program is managed by several agencies, and require water use permits for withdrawals exceeding 10,000 gallons/day or 1 million gallons/year.

The Minnesota Department of Natural Resources works with the public health department on public supplier wells to reduce water needs, losses, peak demands and non-essential uses. Demand reduction efforts could include monthly building and sprinkling restrictions, conservation rates, efficient appliances and education. New, expanded water conservations rules were created in the prior legislative session. Public water suppliers serving more than 1000 residents must comply with these rules.

Minnesota's statewide drought plan includes conservation outreach efforts. Eighty-three percent of the State is in at least severe drought. This gives the public an opportunity to see the effects of drought and for expanded outreach on conservation and efficiency. Separately, the Department worked with a large industry user to transition to a sustainable water supply. This project is under environmental review and construction is expected to begin next year.

Mr. Homuth reported that gage readings are now available on the agency website. Work continues on the State's online permitting system and water use reporting system. The Department also works with other State agencies on various projects, including decision support approaches.

New York

Mr. Zelazny reported that New York adopted regulations to fully implement its water withdrawal management program. New regulations are available on the Department of Environmental Conservation website at: <http://www.dec.ny.gov/regs/4445.html> The regulations include water conservation and efficiency goals which are the same as in the Compact and Agreement. Significant public water suppliers must adopt water conservation and efficiency programs, and all water withdrawals are subject to the State water conservation and efficiency program. A guidance handbook is now available to all permittees to assist in compliance and describes requirements such as best available approaches. Lastly, New York will notify the other Governors and Premiers that the State has met all commitments for adoption of the Compact and Agreement. A letter is in process and will be sent by the end of the year.

Ohio

Mr. Lozier reported that the Ohio water management program law signed by Governor Kasich in June 2012 became effective on September 4, 2012. The State is working through administrative rule development to carry out the details of this law, and will incorporate the work of two working groups looking at criteria under section 4.11.2 of the Compact and Article 203 Paragraph 2 of the Agreement to complete implementation.

Water conservation and efficiency efforts continue on a voluntary basis. Withdrawals requiring permits have to submit a water conservation and efficiency plan. Additionally, Ohio is completing water quantity assessments on a watershed basis for each of several sub-watersheds within the Basin. The assessment for the Cuyahoga River watershed will be finished by June 2013. These assessments include an analysis of water use trends, forecasts and also identify potential future shortages.

Ontario

Mr. Boysen reported that Ontario is still in the process of bringing Agreement commitments into force through regulation. The Province is still working on its intra-basin transfer regulations. Ontario faces a unique challenge in that it has 5/6 watersheds within its jurisdiction but progress is being made. Public consultations are ongoing, and hopefully the regulation will come into force in 2013. Separately, work is ongoing to make sure that rules on withdrawals and consumptive uses are in accordance with the Agreement standards. The Province is unable to determine the magnitude of intra-basin transfers without its regulations in place. All withdrawals, consumptive uses and transfers will be documented when the Agreement comes into force.

Ontario passed legislation banning diversions out of the three major basins. Also, Ontario has a Technical Bulletin in place to help municipalities understand their obligations under the Charter and Agreement. The Water Opportunities and Conservation Act of 2010 supports conservation commitments under the Agreement. Ontario has a program in place regulating for withdrawals exceeding 50,000 litres/day including dams and hydroelectric generation. The Provincial Parliament tabled the Great Lakes Protection Act, but during the second reading of this bill Premier McGuinty announced his resignation and the bill died on the table. In the New Year, the Ontario Liberal Party is choosing a new leader who will become Premier.

Finally, Provincial water conservation goals and objectives were posted to the environmental registry public website on November 8, 2012.

Québec

Mr. Gaucher reported that Québec elected a new Government in September. The new leader, Premier Marois, signed an Agreement implementation notice, which was sent to the States and Provinces. Also in September, Québec submitted its water use baseline data to the Regional Body. Water conservation and efficiency goals and objectives were posted and work continues on a conservation and efficiency inventory in various ministries. Québec will provide a “global” program for Agreement implementation by September 2013.

Wisconsin

Mr. Ebersberger reported that Wisconsin filed its water conservation and efficiency report on November 21, 2012, and updated Statewide goals and objectives. The State is applying mandatory portions of the Statewide program.

Mr. Ebersberger also provided an update on the City of Waukesha's application for a Diversion from the Great Lakes-St. Lawrence River Basin. The Wisconsin Department of Natural Resources is working with Waukesha and a consultant as they compile additional information needed for the State to make a decision about next steps. All information is available by going to www.dnr.wi.gov and searching "water use."

Tribes/First Nations Dialogue

Mr. Adams recognized Peter Johnson, Deputy Director of the Council of Great Lakes Governors, to provide an update on recent dialogue with Tribes and First Nations.

Mr. Johnson noted that at last year's Regional Body and Compact Council meetings, an Agreement with Godfrey & Kahn (G&K) was approved to provide consulting services for the development of communication protocols with Tribes and First Nations. Based upon the good work of G&K, he presented to the Regional Body protocols for consideration. He asked G&K to provide an overview of the process and what has been developed.

Brian Pierson of G&K noted that following the approval of the Regional Body last year, a team of staff from the States and Provinces was formed with the role of overseeing the development of protocols for improving communications with Tribes and First Nations. This team began with a review of all the communications protocols across the region for communicating with Tribes and First Nations. A summary of those protocols was created and shared with the State and Provincial staff serving on the "Tribes and First Nations Team" for their input and review. In addition, a database of relevant Tribes, First Nations and corresponding organizations was created for providing contact with Tribes and First Nations. A letter was then sent to all of the individuals in the database asking them to provide any background information they may have regarding communications processes used for dialogue between Tribes, First Nations and States and Provinces.

Following the review of the communications processes currently in place, review of other relevant existing laws, comments received, and ongoing discussions with members of the Tribes and First Nations Team as well as Council staff, communication protocols were developed that were intended to be consistent with this research.

A motion was made by Mr. Boysen to formally approve the Tribes and First Nations Communications Protocol. The Chair indicated that unless there was an objection, he would assume that all members' votes were in the affirmative. Hearing no objection, the motion was approved.

Administrative

Mr. Adams recognized David Naftzger, Secretary to the Regional Body, to provide an administrative report. Mr. Naftzger reported that the Council of Great Lakes Governors recently received a grant from the National Oceanic and Atmospheric Administration to help support work related to the cumulative impact assessment required under the Compact and Agreement. The Council will be working with the Great Lakes Observing System, U.S. Geological Survey and Jim Nicholas on this effort. Early in 2013, the group will begin collecting needed data and information, and plan to have a draft cumulative impact assessment prepared by the summer.

Separately, the water use information initiative continues to move forward. The Great Lakes Commission (GLC) manages the regional water use database as set forth by the Great Lakes Charter, and the Agreement and Compact. He expressed appreciation for the work of Tom Crane, Becky Pearson, and others at GLC for their work on this project. Council staff recently met with GLC to receive an update on this work. The annual report for 2009 is now available on the GLC website, and a new database following Regional Body and Compact Council protocols is going into effect in 2013. The 2009 report follows the old convention. Data for 2010 has been compiled and a draft report developed. It will be posted online on January 15, 2013. GLC has requested data for 2011 and is waiting for information from Michigan and Ontario. Pending receipt, a draft 2011 report will be available in mid-March 2013, with the final report to follow in April 2013.

Mr. Naftzger noted that the Regional Body and Compact Council will again be hosting a session at the International Association of Great Lakes Research (IAGLR) conference in June 2013 in Lafayette, Indiana. He thanked the Indiana Department of Natural Resources staff for helping to arrange this session and encouraged those interested to submit abstracts to the IAGLR website. The session will cover the Regional Body Science Strategy and presents an opportunity to discuss future work items.

Separately, States and Provinces that have completed implementation of the relevant portions of the Agreement have sent notices to the other Parties in fulfillment of the terms of the Agreement to inform them that such actions have been taken. Thus far notices have been received from Illinois, Indiana, Michigan, Minnesota, Québec, and Wisconsin. Notices are pending from New York, Ohio and Pennsylvania.

Mr. Naftzger also provided an update on an additional administrative item. The Council of Great Lakes Governors recently entered into a contract to retain Holland & Knight to provide legal assistance to the Council in its role as Secretariat to the Regional Body and Compact Council. The Council plans to cover costs associated with this work--\$2500 per month paid through a retainer fee arrangement--with monies already provided for personnel in the approved budgets.

A motion was made by Mr. Ebersberger to formally approve Holland & Knight to provide legal assistance to the Council. The Chair indicated that unless there was an objection, he would assume that all members' votes were in the affirmative. Hearing no objection, the motion was approved.

Opportunity for public comments.

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

- Kathryn Buckner, Council of Great Lakes Industries (CGLI) – Ms. Buckner announced that CGLI is developing a tool kit for water stewardship among Great Lakes industry. CGLI welcomes input and webinar participation. The project is funded through the Great Lakes Protection Fund.
- Danielle Chesky, Northeast Midwest Institute – Ms. Chesky asked a question regarding the Illinois report and diversion.
- Jared Teutsch, Alliance for the Great Lakes—Mr. Teutsch commented on the public aspect of the Regional Body meeting, saying that while a conference call is technically a public meeting it discourages public participation and comment, both formal and informal. He encouraged the Regional Body to hold at least one in-person meeting per year.
- Dale Phenicie, CGLI – Mr. Phenicie mentioned that it would be helpful for the States and Provinces to catalog and post online water use handbooks and other materials.
- Marc Smith, National Wildlife Federation—Mr. Smith stated that the Regional Body should regard the Advisory Committee as a resource in dealing with challenges and obstacles facing implementation. He added that the members of the Advisory Committee want to help and be more active, and challenged the Regional Body to put them to work.

New Business

Selection of Vice Chair, announcement of Chair (Wisconsin).

Mr. Adams noted that pursuant to the terms of the Agreement, the Regional Body Vice Chair (Governor Walker of Wisconsin) will become Chair on December 13, 2012. Governor Walker has designated DNR Secretary Cathy Stepp to serve in this role.

Mr. Adams announced that a drawing would now take place to determine who would serve as Regional Body Vice Chair beginning on December 13, 2012. The drawing would take place among those that had not already served, including the Governors of Illinois and New York. Mr. Adams then invited Mr. Naftzger to conduct the drawing, and noted that representatives of Holland & Knight were witnessing the draw in Chicago.

Mr. Naftzger announced that the Governor of New York was selected as Vice Chair. Mr. Adams congratulated the Governor of New York, and thanked the Regional Body members for the opportunity to serve as Chair during the past year.

Other business

Mr. Ebersberger thanked the Governor of Pennsylvania for his leadership in the last year, and confirmed that if the Regional Body considers a decision on Waukesha, Wisconsin's proposal to divert Great Lakes Water, Wisconsin will yield to the Vice Chair on all related matters.

Mr. Boysen mentioned that Ontario may receive an application for a large water taking subject to the Great Lakes Charter's prior notice and consultation provisions in 2013. This application would come from an agricultural operation with drip irrigation. Ontario will use the formal process once the application is received.

Mr. Lozier announced that Ohio Department of Natural Resources is partnering with the Lake Erie Commission on a grant program. A request for proposal will be issued for a \$30,000 grant for the purpose of gathering and cataloging best management practices for water use sectors. Applications are due by February 1, 2013.

Adjournment

A motion was made by Mr. Ebersberger to adjourn. The Chair indicated that unless there was an objection, he would assume that all members' votes were in the affirmative. Hearing no objection, the motion was approved and the meeting was adjourned. 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 is available online at www.glsregionalbody.org.