

Great Lakes—St. Lawrence River Water Resources Regional Body
Meeting Summary
December 9, 2014
11:00 a.m. EST

Notice:

Notice of the meeting was provided to the public through the Great Lakes Information Network's distribution list on November 8, 2014. 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:

11:00 a.m. EST— The meeting was called to order by Don Zelazny¹, designee of New York Governor Andrew Cuomo.

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 Mike Pence): Chris Smith, Deputy Director, Indiana Department of Natural Resources.

Michigan (designee of Governor Rick Snyder): Grant Trigger, Michigan Cleanup Manager, RACER Trust.

Minnesota (designee of Governor Mark Dayton): 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): Tim Biggam¹ on behalf of James Zehringer, Director, Ohio Department of Natural Resources.

Ontario (designee of Premier Kathleen Wynne): Jennifer Keyes¹ on behalf of Eric Boysen, Director of the Bio-Diversity Branch, Ontario Ministry of Natural Resources.

Pennsylvania (designee of Governor Tom Corbett): Tim Bruno¹ on behalf of Kelly Heffner, Deputy Secretary for Water Management, Pennsylvania Department of Environmental Protection.

Québec (designee of Premier Philippe Couillard):

Marcel Gaucher, General Director, Direction générale des politiques de l'eau, Ministère du Développement durable, de l'Environnement et de la Lutte aux changements climatiques Parcs (MDDELCC).

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

Wisconsin (designee of Governor Scott Walker): Matt Moroney¹ on behalf of Cathy Stepp, Secretary, Wisconsin Department of Natural Resources. Eric Ebersberger also participated.

Actions Taken

Review of June 13, 2014 Regional Body meeting minutes

A motion was made by Mr. Trigger to formally approve the minutes of the June 13, 2014 Regional Body meeting. Mr. Injerd seconded the motion. The motion to adopt the June 13, 2014 meeting minutes was approved.

Reports

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

Each Regional Body member or 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.

Illinois

Mr. Injerd reported that during the last few months rulemaking has been underway in Illinois to update the Lake Michigan water allocation rules. The Lake Michigan allocation rules had been in place for 30 years and needed to be overhauled. Mr. Injerd reported that new rules are now in effect, and they include a new focus on conservation and efficiency. While water conservation and efficiency has always been a cornerstone of the Illinois water program, the rules now include a new standard for water loss accounting. The American Water Works Association (AWWA) system has been adopted with a new water loss threshold and compliance measures. Those exceeding this threshold must submit a system improvement plan. Mr. Injerd expects many communities to do this. The plans must be developed by local water supply utilities that then submit a plan to the State. This requirement must be flexible because of financial challenges at the State and local level. This new level of focus on water loss stems from the economic importance of water. Northeast Illinois communities have in some cases experienced a 3 or 4 fold "end to end" cost increase to provide water in recent years. The Illinois Department of Natural Resources is working with Illinois EPA and Illinois AWWA to develop water loss audit methods training. This is mandatory in Northeast Illinois, and Statewide training will diminish water loss overall. Through the new rules, Illinois has also reinvigorated Statewide water planning. These new rules make a significant update to plumbing fixture standards based on EPA Watersense criteria for new construction and major remodeling.

Regarding the Lake Michigan diversion, Mr. Injerd reported that Illinois remains in full compliance with the U.S. Supreme Court decree. Illinois' diversion has been below the limit contained in the decree since 1995. A debt was accrued prior to 1995, and has since been paid off. Mr. Injerd indicated that the State has a healthy surplus of water availability if needed due to climate change or other reasons.

Illinois submitted its reports due every five years regarding conservation and efficiency on time, and these were posted online. Mr. Injerd reported that domestic water use continues to decline, and includes around a 300 million gallons per day reduction for the Chicago metropolitan area. He noted that it is hard to estimate the value of that reduction and that the renewed focus on conservation has been helping to drive the reduction. In addition to the domestic water use focus of Lake Michigan water, water is also used in the Chicago Area Waterways System (CAWS). Currently, a petition is in process for a Metropolitan Water Reclamation District allocation needed to enhance the water quality of the CAWS canal system. The petition process should be completed in 3-4 months.

Indiana:

Mr. Smith reported that in Indiana administrative rules for implementation of the Compact have been signed by the Governor and posted to the Indiana Department of Natural Resources website. The State legislature is discussing water planning and several bills look to the Compact as a model that can apply to a Statewide water plan.

Michigan:

Mr. Trigger reported that a number of activities are ongoing in Michigan. Most key are the efforts of a water use advisory committee comprising stakeholder groups discussing various water management issues. At a meeting on December 16, the committee will finalize recommendations to be sent to the Director of the Department of Natural Resources and the Governor. These include verification of data that recognize existing weaknesses, improve stream gauge data and the ability to assess water withdrawals.

Most users of Michigan's online withdrawal assessment program are agricultural irrigators. Michigan has received nearly 3000 agricultural irrigation requests, representing about 95% of all online users. The largest use by volume is thermoelectric. Public water supply and then irrigation are volumetrically the next largest sectors.

Of all online requests to the withdrawal assessment program to date, about 40 percent required a detailed, site-specific review. 14 requests were denied due to a likely adverse impact. This system is working, a review shows areas for improvement and the program can be made better. For example, consumptive use estimates collected by the Great Lakes Commission suggest the need for a technical review of database quality. The risk under current practice is to create false impressions of higher or lower water use.

With regard to a State technical review of consumptive use, Michigan is looking at funding for needed staff and data needs. For example, a better understanding of evaporation, ice cover reduction and evaporation effects will improve the review. Substantial work has already been done to improve data quality, but more is needed.

Minnesota:

Ms. Ekman reported that in Minnesota groundwater issues remain at the forefront. Groundwater sustainability is affected by increased irrigation demand, and is concentrated in specific areas. This impacts surface waters, including in metropolitan areas where bedrock aquifers are used. Lower aquifer levels are being monitored.

Minnesota established groundwater management areas, and three pilot programs, to bring together affected parties and to understand limitations of the common resource. Users are provided buy in and help to reach solutions through conservation or other creative means. This approach has gained more acceptance from users.

In looking at trout stream impacts from water withdrawals, Minnesota is changing from the long-held view that water will always be abundant. The Department of Natural Resources (DNR) has taken the position that it cannot assume that water will be present into the future. Permits in the past have always been reissued on an annual basis after annual reporting, but reminders are now being sent that permits can be changed or terminated. This has not been done as of yet. Separately, the DNR must also perform an assessment before a new well is drilled. If there are concerns, Minnesota lets applicants know. Large industrial users are working to find alternative resources if, for example, their use is affecting trout streams. They will need a backup plan under low water conditions.

Minnesota developed new laws to encourage reuse of water and stormwater reuse. The authority to administratively penalize violators is new at the DNR, and the DNR will begin to exercise this new authority on January 1, 2015. In addition, a demand from businesses for a more efficient permit process has brought about continuous improvement toward a better method. The Governor has awarded the DNR and the Minnesota Pollution Control Agency for efficiency improvements. The DNR has set a 150-day goal to approve applications based on Six Sigma and other efficiency programs. The DNR already issues a general permit for common activities with known impacts where certain conditions are met, and provides a quick turnaround for these users.

The St. Louis River Area of Concern (AOC) has involved significant work to remove it from the AOC list. It was originally listed in 1987, and over \$400 million has already been spent to meet a roadmap and address nine impairments.

In addition to work done at the State level, local governments also develop water resource management plans. The new law says that one plan can meet all State requirements. The DNR is working on a watershed plan that overlaps local boundaries and includes a focus on impairments, water use and more conservation.

Ms. Ekman also announced the upcoming Lake Superior symposium, which is an international conference where research is presented on threats and stressors on the Lake. The symposium will include representatives from the U.S., Canada and Tribes including government staff, university faculty and nongovernmental participants.

New York:

Mr. Zelazny reported that New York is well underway with implementing its water withdrawal program under the Agreement. New York has taken the approach to adopt the Agreement and integrate implementation into a Statewide program. As a result, water withdrawals are treated equally across the State. Under the regulatory program, non-public users, with certain exceptions registered prior to February 2012, are required to

apply for initial permits. The initial application process began for the largest withdrawals in 2013, and smaller withdrawals between 100,000 to 500,000 gallons per day will be reviewed until 2017. The goal is to include all non-public users in the system.

In February 2015, New York will begin processing the third round of permits for non-public systems with a capacity to withdraw 2-10 million gallons per day. All of these systems must meet the Agreement's decision making standard, and include water conservation and efficiency standards and goals. Public water supply is regulated by permit, and must include water conservation and efficiency goals addressing metering, lost water, effective maintenance, recycling and reuse, and household conservation including seasonal and drought shortages. Technical guidance and template forms are available on the Department of Environmental Conservation's website for all sectors.

Ohio:

Mr. Biggam reported that pursuant to House Bill 473, Ohio convened a work group to develop administrative rules to implement the statute and Compact. The work group developed its recommendations and these recommendations are pending legislative developments. The General Assembly is moving forward and may adopt a rule, rather than statute, for determining adverse impacts caused by water withdrawals. In any case, the Department of Natural Resources (DNR) has contacted all existing facilities to clarify existing rules.

Water quality issues are at the forefront in Ohio, including addressing nutrient reduction. This is being debated in the General Assembly, especially for the western Lake Erie basin. The Ohio DNR is looking forward to legislative action, and may take executive action if needed.

Ontario:

Ms. Keyes announced that Ontario was on the verge of fulfilling its final commitment to fully implement the Agreement. Toward that end, regulatory changes and amendments were filed on September 27, 2014, and will become effective on January 1, 2015. These changes were publicly posted in April and June 2014. After a 45-day comment period, Ontario moved to finalize these rules. Ms. Keyes noted that this is good news for Ontario and the region.

Ontario has many water conservation and efficiency programs which have been listed on the Regional Body website. Separately, after the recent election, it was announced that the Great Lakes Protection Act will be reintroduced soon. The Act will strengthen tools to protect the Great Lakes, including beaches, shorelines and coastal areas.

Ontario's Great Lakes strategy includes a fund to help localities work on water quality and Area of Concern issues. In closing, Ontario is pleased to announce that the Agreement finally can be implemented.

Pennsylvania:

Mr. Bruno reported that Pennsylvania continues to meet all requirements of the Compact. 2014 was a good year with 5-year water management program reviews, and water conservation and efficiency program reviews. He noted that these programs provide an opportunity to enhance education, public outreach and involvement. Pennsylvania focuses on outreach to different groups, provides online information for users in coordination with Sea Grant, and will launch an online technical resource center called WALTER in late 2015 or early 2016. Also, Pennsylvania is convening a Lake Erie water conservation planning team including local entities and non-governmental organizations to coordinate future activities. In May 2015, the Department of Environmental Protection partnered with the Water Systems Council for the Great Lakes children's festival that includes local schools and kids from New York and Ohio to learn about water and the lakes.

Québec:

Mr. Gaucher noted that Québec is in full compliance with the Agreement. Mr. Gaucher also reported that Québec adopted a new regulation concerning water withdrawals and that came into force in 2014. This new regime requires that new and existing permits must be reviewed. This new system also accounts for an assessment of cumulative impacts per watershed and provides tools for water resource reviews. The largest users are required to develop water conservation and efficiency measures.

Also, the new Québec government elected in April 2014 committed to review the Water Policy of 2002. Almost all planned initiatives have been accomplished, and it was decided that it was time to update this policy. The government is just starting to work on this, with a new policy to be developed in 2015-16. The government will consult stakeholders and is now in the initial drafting stage.

Wisconsin

Mr. Moroney reported that Wisconsin is focusing on nutrient management and is working with agricultural users and the Natural Resources Conservation Service to develop a comprehensive strategy for nutrients entering the Great Lakes and, separately, the Mississippi River basin. Already, measureable results are being seen on the ground.

A recent court case looked at the cumulative impact of water withdrawals. A busy legislative session will look at the regulatory framework for analysis and decision making process for high capacity users.

Wisconsin continues to clean up Areas of Concern. Work in Sheboygan is done and is nearing completion near Ashland. Wisconsin is working with Minnesota to address the St. Louis River.

Regarding the proposed Waukesha diversion, staff from the Department of Natural Resources continues its technical review. Staff is working through final information and the environmental impact statement, focusing on return flow. Public hearings are

anticipated in March at the earliest, and if approvable, the proposal will move to the Compact Council by late summer or fall 2015.

New Business

Mr. Zelazny noted that due to travel and inclement weather, the Regional Body would vote on the FY2016 budget before hearing the Administrative reports. He noted that informal preliminary approval was given at the June 13, 2014 meeting of the Regional Body, and final approval was now being sought. Mr. Zelazny asked for any comments from the public.

Lyman Welch of Alliance for the Great Lakes asked whether the attorney retainer line item in the budget is adequate for funding for the Waukesha diversion review.

Dave Naftzger of the Secretariat staff responded by noting that the retainer is for ongoing legal support from Holland and Knight, and that any diversion proposal brought before the Regional Body or Compact Council would require a special budget approved by the Regional Body and Compact Council. Approving such a budget would be the first step of the regional review process.

Resolution #22 Adoption of Fiscal Year 2016 Budget (July 1, 2015-June 30, 2016).

Mr. Zelazny reported that the proposed budget and the resolution adopting the budget were previously distributed to the members and were posted to the Regional Body website on May 13, 2014.

Mr. Moroney moved to approve the resolution. Mr. Biggam seconded the motion. The question was then called on the resolution, and a roll-call vote was taken.

Illinois—Yes

Indiana —Yes

Michigan—Yes

Minnesota—Yes

New York—Yes

Ohio—Yes

Ontario—Yes

Pennsylvania—Yes

Québec—Yes

Wisconsin—Yes

The resolution was approved.

Administrative

Mr. Zelazny recognized Becky Pearson from the Great Lakes Commission (GLC). Ms. Pearson reported that the GLC was pleased to produce the 2013 water use report. She noted that the GLC is working with the States and Provinces to improve the quality of data in the report, which includes a new interim cumulative impact assessment for 2011 and 2012, as provided in appendix D of the report. The report is available online at

glc.org, along with associated 2013 data, which can be queried and downloaded. She noted that the GLC is happy to continue to improve data quality, and is planning to automate metadata creation through the website.

Mr. Zelazny noted that, after the 5-year cumulative impact assessment was done in 2013 covering the years 2006-2010, the incremental threshold of 50 million gallons of water per day more being withdrawn was exceeded in 2011 and 2012 thereby necessitating new assessments under the Compact and Agreement. In response, this interim cumulative impact assessment was done. He also indicated that the Regional Body appreciates the effort to analyze data from GLC staff, and that the Regional Body members learned a lot from the analysis.

Secretariat

Pete Johnson of the Secretariat staff commented that both the Compact and Agreement require the interim cumulative impact assessment as noted by Mr. Zelazny. He noted that the Secretariat is working with the GLC to complete an interim cumulative impact assessment every year going forward. This will be pursuant to Agreement and Compact requirements when needed and will still be included informally in other years.

Also, with regard to the State and Provincial reports required every five years on water management programs and water conservation and efficiency programs, the Regional Body and Compact Council are required to develop a declaration of findings on each program, to determine whether they are consistent or inconsistent with the Compact and Agreement or requiring modification. The Provinces are not required to undergo this assessment yet, but have done so voluntarily. They will be required to undergo this assessment once the Agreement comes fully into force. In any case, all reports will be reviewed and posted online.

The declarations of finding will receive feedback from the public and be released as draft prior to the next meeting in June 2015. The drafts will be posted publicly 45 days prior to the next meeting of the Compact Council and Regional Body, with comments shared with Regional Body and Compact Council members before the meeting.

Opportunity for public comments.

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

Dave Dempsey, International Joint Commission (IJC):

Mr. Dempsey noted that in 1999 the federal governments referred questions to the IJC and directed it to study cumulative uses and bulk water removals from the Basin. A 2000 IJC report then included recommendations for resource standards. One recommendation was to review the status of the recommendations every 10 years after the review was completed in 2004. He noted that the IJC has begun research and analysis along with Alex Mayer at Michigan Tech and Ralph Pentland, formerly with the Canadian government and author of the 1987 federal water policy. A draft report will likely be posted for public comment in January or February of 2015, and the final report is expected to be issued in the spring of 2015. He noted that a considerable amount of

activity has happened since the last report was issued in 2004, particularly the implementation of the Compact and Agreement. He suggested that the new report will likely attest to significant progress made and deliver new recommendations.

Mr. Trigger asked if a scope of work is available for the current study. Mr. Dempsey commented that a draft table of contents may be available, as well as correspondence with the governments that sets the bounds of the report.

Dick Bartz, United States Geological Survey (USGS)

Mr. Bartz brought to the attention of the members two recent USGS reports on water use: the 2010 national water census and a report on withdrawals and consumptive uses from thermoelectric power plants. He indicated that USGS would be glad to work with State and Provincial staff to best use these reports.

Lyman Welch, Alliance for the Great Lakes

Mr. Welch thanked Indiana for consideration of concerns with its new rules; particularly wording that, from the Alliance's perspective, could have created prior appropriation rights unintentionally. The Alliance for the Great Lakes provided revised language, and is working with other stakeholders to improve the rules from their perspective in Indiana. He expressed his appreciation for Indiana's willingness to work together and improve these rules.

New Business

Announcement of Illinois as Chair and Ohio as Vice Chair

Mr. Zelazny noted that pursuant to the terms of the Agreement, the Regional Body Vice Chair (Governor Quinn of Illinois) will become Chair on December 13, 2014. Now that all of the States and Provinces have served in this role, the rotation is set and will be used going forward. Accordingly, the Governor of Ohio will become the Regional Body Vice-Chair. Mr. Zelazny thanked the Regional Body members for the opportunity to serve as Chair during the past year. He added that it is a fitting final act for Governor Quinn to become Chair, as he has been an outstanding advocate for the Great Lakes during his public service career. He noted that with so many new faces on the Regional Body and new people replacing those involved with the Agreement drafting process the challenge going forward will be to preserve the original intent of the Agreement and Compact. He noted the drafters' focus on the biggest threats to the Basin and the need to manage those first in each jurisdiction. He stated that we are all stewards of the Lakes and that he looks forward to working with Illinois as the leadership torch is passed.

Other business

None.

Adjournment

A motion was made by Mr. Trigger to adjourn. Mr. Injerd seconded the motion. All members voted in the affirmative so the motion was approved and the meeting was adjourned at 12:00 p.m. EST. 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.gslregionalbody.org.