

Great Lakes—St. Lawrence River Water Resources Regional Body
Meeting Summary
December 3, 2015
9:00 a.m. CST

Notice:

Notice of the meeting was provided to the public through the Great Lakes Information Network's distribution list on November 3, 2015. 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:

9:00 a.m. CST— The meeting was called to order by Dan Injerd, designee of Illinois Governor Bruce Rauner.

Roll Call:

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

Illinois (designee of Governor Bruce Rauner): 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, Conservation Assistance and Regulations Section Manager, 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): Mike Bailey¹ 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 (Retired) of the Bio-Diversity Branch, Ontario Ministry of Natural Resources.

Pennsylvania (designee of Governor Tom Wolf): Tim Bruno, Chief, Office of the Great Lakes, 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).

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

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

Actions Taken

Review of June 25, 2015 Regional Body meeting minutes

A motion was made by Mr. Trigger to formally approve the minutes of the June 25, 2015 Regional Body meeting. Mr. Zelazny seconded the motion. The motion to adopt the June 25, 2015 meeting minutes was approved without objection.

Reports

Water Management and Water Conservation and Efficiency Program reports.

Peter Johnson of the secretariat staff reported that, pursuant to Section 3.4.1 of the Compact, in December of 2014 each of the States submitted a “once every five year report” to the Regional Body and Compact Council. The Provinces submitted their reports on a voluntary basis.

The purpose of the reports was to provide the Regional Body and Compact Council with information about each of the States’ and Provinces’ Water Management and Water Conservation and Efficiency Programs. The Regional Body and Compact Council must make findings on whether the relevant provisions in the Compact and Agreement are being met, and if not, make recommendations to assist the Parties.

The State and Provincial reports have been posted to the Regional Body and Compact Council websites since 2014 and, for two of the jurisdictions, have been updated to include additional information. Pete then turned it over to Barb Adams of Holland and Knight to talk about the review process.

Barb Adams of Holland & Knight reported that each of the States and Provinces was required to submit a report explaining how they had met the relevant provisions of the Compact and Agreement. As previously noted, each of the States and Provinces submitted a report by the deadline of December 8, 2014. Holland & Knight and Secretariat staff reviewed the reports and all of the laws referenced in the reports. More information was requested where needed.

Thereafter, new versions of the reports were submitted by two of the Parties. While the Agreement and Compact have broad requirements that must be met by each Party, there is significant flexibility for each jurisdiction to implement its programs. This flexibility allows jurisdictions to reflect the differences in:

- The legal structure of the governing laws and regulations.
- The many different types of water issues each has to address—for example, jurisdiction-wide programs and programs covering other water resources beyond Great Lakes/St. Lawrence surface water.
- The administrative structure within each jurisdiction.

In short, while everyone must be within the parameters provided for by the Agreement and Compact, there is no “one size fits all” approach to how Water Management and Water Conservation and Efficiency Programs can be adopted and implemented.

She noted that some Parties' reports are more extensive than others, but it is clear after reviewing the program reports and the laws and programs referenced in them that all States have adopted the Compact and it will apply and govern activities within those States. She finally stated that based on the review by the Secretariat staff and H&K, the recommended Declarations of Finding were placed before the Regional Body and Compact Council members for their consideration.

Mr. Injerd thanked Ms. Adams for her comments and stated, as noted, each of the States and Provinces submitted very thorough written reports on their Water Management and Water Conservation and Efficiency Programs last year. He also noted that the Regional Body and Compact Council members had also received written comments on the reports which were considered and are available from Secretariat staff upon request.

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

Mr. Injerd then asked would now like to go around the table and see if there was any additional information each jurisdiction would like to share since the Water Management and Water Conservation and Efficiency reports were submitted last year.

Illinois

Mr. Injerd reported that the past year was the first operating under updated rules for the Lake Michigan water allocation. Illinois has been very active in working with 210 public water supply areas that need to update plumbing code ordinances to reflect these new rules. These rules include plumbing fixtures, lawn sprinkling, and a few other elements. Communities have to make changes to their own code. This has also been the first year of using a new water loss accounting methodology that fully implements the American Water Works Association (AWWA) methods, which represents a significant change with substantial impact in the value of water loss and the need to address it. These changes will generate a lot of interest and infrastructure upgrades. In conjunction with Illinois EPA, Illinois DNR held 35 water loss seminars across the state, at least 12 of which were in the Lake Michigan service area.

Illinois also completed a water rate survey that's typically done every 5 years. The information from the survey is available on the DNR website. The average rate is about \$8 per 1000 gallons, which is among the highest in the United States. This represents a 53% increase over 5 years within the Lake Michigan service area and reflects new interest in rates that allow for infrastructure improvements.

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 Minnesota is analyzing the effects of groundwater use on surface water, and performing a further analysis to ensure that such water use doesn't harm ecosystems.

New York:

Mr. Zelazny reported that in April 2013, New York's implementing regulations went into effect, covering all of New York State. The State adopted a 5-year schedule to transition existing registrations to a permitting program that meets threshold volumes. Entering the fourth year, applications are due to DEC by February 15, 2016 for existing, new and additional withdrawals between 500,000 gallons a day and 2 million gallons a day. New York is already issuing permits for all withdrawals over 2 mgd. Withdrawals between 100,000 and 500,000 gallons a day will be due in 2017. This program is making significant progress is moving from the largest to smallest withdrawals. New York is working with withdrawers to revisit total allowable amounts and help hem understand conservation and efficiency requirements. Mr. Zelazny noted that it has been an education process for everyone.

On November 20, DEC issued technical and operational guidance for the proposed evaluation of withdrawals from reservoirs to ensure intermittent releases result in no adverse impacts on water quality. This is typically called a low flow regulation standard. Information is available on the DEC website and highlighted in New York's program report.

Several years ago, New York adopted the Ocean Great Lakes Ecosystem Conservation Act. It requires a Great Lakes action agenda. Groundwater resources were identified as areas of need. This program undertook two groundwater aquifer studies and determined capacity, enabling better conservation and wiser use.

Ontario:

Ms. Keyes reported that the Ontario legislature passed the Great Lakes Protection Act, which includes a requirement to report progress to the legislature in three years and a public strategy. Ontario also finalized all aspects of regulations to fully implement the Agreement. This has been the first year with all regulations in effect.

Pennsylvania:

Mr. Bruno reported that Pennsylvania continues to meet all requirements of the Compact and Agreement. In the last 6 months, the Department of Environmental Protection (DEP) created a standard operating procedure for review of water use proposals in other states. The procedure will identify circumstances, timeline and process for regional review and determining whether a proposal meets the decision making standard.

Pennsylvania also has a new program focusing on water quality. It uses federal and states resources and works with universities to analyze large agricultural components. The goal is to reduce non-point source pollution in the Lake Erie Basin.

Regarding water conservation and efficiency, DEP is exploring funding a series of trainings for public water suppliers in the Lake Erie watershed with a focus of system operational efficiency. This includes leakage and pressure management, metering, and water loss auditing through AWWA software. John Quigley announced Pennsylvania is preparing an update to the state water plan in 2016, which may be accompanied by legislative changes.

Québec:

Mr. Gaucher reported that he had nothing to add beyond what was included in the Water Management Program Report that was included as part of the Declaration of Finding being considered later in today's meeting.

Wisconsin

Mr. Ebersberger reported that Wisconsin is working to improve its permitting program under the Compact, and to increase funding for groundwater quantity network and improve streamflow data.

Wisconsin continues to review the Waukesha proposal. It has held a public hearing, and completed a draft technical review and draft environmental impact statement. They are now reviewing thousands of comments and are in the process of preparing a revised technical review. Wisconsin appreciates other State programs and appreciates constructive criticism from stakeholders. The State believes they have a fully compliant program and welcome comments for improvement.

Administrative reports.

2014 Water Use Report and Interim Cumulative Impact Assessments

Mr. Injerd next recognized Steve Cole of the Great Lakes Commission (GLC) staff to provide a progress report on the 2014 Water Use Report and Interim Cumulative Impact Assessment.

Mr. Cole reported that the GLC recently completed a draft report of Great Lakes water use for 2014. The draft was distributed earlier this week, and includes metadata collected during the reporting process that helps explain data and improve quality. They are working to better understand data and data needs. He stated that there are still some challenges in the data received, and noted that these are summarized under the compliance section of the report, which the GLC will work to improve in future years. He also thanked staff from the US Geological Survey for providing assistance, including working with jurisdictions to improve data.

Celebration of the ten year anniversary of the signing of the Agreement

Mr. Injerd stated that on December 13, 2005 the Great Lakes Governors and Premiers came together in Milwaukee, Wisconsin to sign the Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement, launching a new era of cooperation and protection for 20% of the world's surface fresh water. He stated that we can all recognize that this was a historic event resulting from the hard work of many people, including many people in the room today. He also noted that the signing of the Agreement was not the end of the process. Working together, the States and Provinces built on the "first of its kind" type of Water Management Agreement with a lot of other firsts. He then shared a powerpoint presentation on the accomplishments achieved by working together (available upon request).

Mr. Injerd then introduced a short movie that was first screened at the 2015 Leadership Summit in Québec City. He noted that there is much to be proud of, but also much more work remains to further fulfill the promise of the Agreement and the Compact (movie available upon request).

Mr. Injerd recognized Mr. Trigger. Mr. Trigger stated that Michigan has a robust comprehensive Water Management program which has been designed and implemented with a significant emphasis on resource-based decision making and prevention of adverse resource impact.

This program has evolved over a nearly ten year period with extensive public participation with a variety of public advisory councils (groundwater and water use) and public outreach.

All program elements have been designed to achieve and maintain compliance and consistency with the Great Lakes Compact standards.

Michigan has embraced and created an adaptive management framework with periodic program review built into the process. For example, over the last two years Michigan's

Water Use Advisory Council comprised of 32 members representing major water users met 21 times and produced 70 recommendations at the end of 2014 for consideration in our continuous improvement efforts.

Furthermore, Compact Council staff and legal counsel have conducted a review of each jurisdictions program reports including Michigan's and the proposed declarations have been presented to us based on that review.

Michigan acknowledges the comments submitted by interested stakeholders and anticipate they will be considered by Michigan's Water Use Advisory Council during their ongoing deliberations. As to other jurisdictions they may in their discretion consider potential program improvements based on those comments.

Mr .Trigger concluded by stating that for these reasons he is confident in requesting Compact Council adoption of the proposed declaration and findings with respect to the Michigan programs.

Interests represented on Water Use Advisory Council

Agriculture
Aggregate industry
Golf courses
Industry
Utilities
Water well drillers
Municipal water supplies
Water resource groups
State and federal agencies
Conservation and environmental groups
Tribal organizations, and
University representatives.”

Mr. Injerd recognized Mr. Zelazny, who said that only about half of the people in the room were involved in negotiations for the Compact and Agreement. He noted, for example, an evolution of the people in his agency. The people who negotiated the agreements were committed to their success. He stated that the shared challenge is to maintain a strong commitment to stewardship of the agreements for new people. He closed by noting that we will continue to see new threats and challenges, and many issues remaining, and he encouraged everyone to consider how we help the next generation to take on these challenges.

Opportunity for public comments.

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

Jim Weakley, Lake Carriers' Association

Mr. Weakley commended the jurisdictions for following through on their commitments. He applauded the review of States' programs by legal counsel which gave an extra layer of transparency and openness. He thanked those involved for the extra step.

Dale Phenicie, Council of Great Lakes Industries

Mr. Phenicie stated that he had been involved in the original negotiations of the Compact and Agreement. He noted that from an industry standpoint, it's very important work that secures the region's water supply. He stated that there are concerns still about bureaucratic entanglements but overall things work well, and that for industry the agreements set the stage for taking a serious look at water use and efficiency. Industry has to keep better records with reporting, and getting precise information is difficult because variability can overshadow important information, but that requirements need to continue to be reasonable. He closed by noting that so far the Compact and Agreement have established the business case for complying, but other aspects of stewardship are more difficult.

Marc Smith, National Wildlife Federation (NWF)

Mr. Smith commented that he joined NWF at the very end of the Compact and Agreement development process. The Congressional portion moved fast, and was a testament of collaboration. He stated that NWF works with partners to ensure implementations meets the requirements of the Compact and Agreement, and are firm believers in pushing to uphold the intentions of the Compact. Along those lines, comments submitted to the States on their Water Management and Water Conservation and Efficiency programs may be critical but are done to elicit feedback and dialogue. NWF really wants the Compact and Agreement to succeed. The written comments submitted recognize there are financial constraints, and it's encouraging that there appears to be some willingness to work with them. He requested that approval of the Declaration of Finding resolutions on State programs be delayed until there's a chance to work through some of the comments. He closed by stating that everyone needs to continue to push the Compact as a model for other regions, and the process is still in its infancy.

Karen Hobbes, Natural Resources Defense Council (NRDC)

Ms. Hobbs underscored Marc Smith's comments on the spirit of collaboration. She stated that NRDC began working on the Compact and Agreement implementation in 2010. The rate of progress is a stunning achievement. She echoed Mr. Smith's request to delay approval of the resolutions adopting Declarations of Finding on State programs, because NRDC found that no State had fully met Compact requirements. However, some States are doing important work. Illinois and Michigan deserve recognition, as does Wisconsin for its professional and thorough review of the Waukesha proposal. Section 4.2.2 of the compact is not intended to be one size fits all, and NRDC found 6 States did not meet the requirements. She asked again that the vote be delayed that the secretariat release information shared among the jurisdictions.

Todd Ambs, Healing Our Waters Coalition

Mr. Ambs commented that he doesn't work directly on Compact issues anymore, but he's been doing related work for 35 years mostly with state government and NGOs. His role with the Compact on behalf of the State of Wisconsin during the negotiations was the most significant. The process was very collaborative, transparent and inclusive. At some point he disagreed with everyone involved, but everyone worked to reach a common goal. The idea of individual jurisdictions talking with advisors is healthy, helpful, and in the spirit of collaboration. He agreed with Marc Smith on requesting a delay on the consideration of the resolutions adopting the Declarations of Finding.

Dick Bartz, US Geological Survey (USGS)

Mr. Bartz stated that USGS was pleased to provide peer review of the water use reports and metadata for GLC. They will be talking about future work with us going forward. He also reported that USGS has a water availability grant program, which most states took advantage of to develop works plans. An RFP in January or February 2016 will be open to assist States in further developing their programs. He closed by noting that those interested should contact their State water science center.

Old business.

Consideration of Resolution #23—Adoption of Draft Fiscal Year 2017 Budget (July 1, 2016-June 30, 2017)

Mr. Injerd noted that the budget was preliminarily approved at the June 25 meeting, but needs to still be formally approved. He invited a motion to grant adoption of the resolution and a second.

Mr. Bruno moved to adopt the resolution and Mr. Trigger seconded the motion.

Mr. Injerd reminded Regional Body members that adoption of the budget must be unanimous and asked for a roll call vote:

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

The motion passed unanimously.

New Business

Consideration of Resolution 2015-1 Adopting Joint Declaration of Finding For the Water Management Program Review and Water Conservation and Efficiency Program Review for the State of Illinois

Consideration of Resolution 2015-2 Adopting Joint Declaration of Finding For the Water Management Program Review and Water Conservation and Efficiency Program Review for the State of Indiana

Consideration of Resolution 2015-3 Adopting Joint Declaration of Finding For the Water Management Program Review and Water Conservation and Efficiency Program Review for the State of Michigan

Consideration of Resolution 2015-4 Adopting Joint Declaration of Finding For the Water Management Program Review and Water Conservation and Efficiency Program Review for the State of Minnesota

Consideration of Resolution 2015-5 Adopting Joint Declaration of Finding For the Water Management Program Review and Water Conservation and Efficiency Program Review for the State of New York

Consideration of Resolution 2015-6 Adopting Joint Declaration of Finding For the Water Management Program Review and Water Conservation and Efficiency Program Review for the State of Ohio

Consideration of Resolution 2015-7 Adopting Joint Declaration of Finding For the Water Management Program Review and Water Conservation and Efficiency Program Review for the Commonwealth of Pennsylvania

Consideration of Resolution 2015-8 Adopting Joint Declaration of Finding For the Water Management Program Review and Water Conservation and Efficiency Program Review for the State of Wisconsin

Consideration of Resolution 2015-9 Adopting Declaration of Finding For the Water Management Program Review and Water Conservation and Efficiency Program Review for the Province of Ontario

Consideration of Resolution 2015-10 Adopting Declaration of Finding For the Water Management Program Review and Water Conservation and Efficiency Program Review for the Province of Québec

Mr. Injerd stated that the Regional Body has received written comments from a number of individuals and organizations about the State and Provincial programs, and he thanked them for their work and suggestions about how each Party may work to improve. He also noted that the Parties have reviewed these comments and will further consider them as future program changes are made.

He reiterated that each Party has done substantial work to implement the Compact and the Agreement, and each has significantly improved programs to develop what is in place today. He then stated that what is before the Regional Body members are draft resolutions concluding that the Parties are meeting the requirements of the Compact/Agreement with their Water Management and Water Conservation and Efficiency Programs.

Mr. Injerd also noted that from Illinois' standpoint, they recognize the request to delay the approval of State programs. At this point it's the opinion of each jurisdiction that the

programs meeting the requirements of the Compact and Agreement. Legal counsel agrees as well. While some entities disagree, he noted that in the spirit of cooperation, even with a vote the subject is ongoing. It's not a static issue. Programs will evolve and adapt. He stated that the vote is not the end of the discussion, but the jurisdictions conclude at this point that the programs meet the requirements.

Mr. Injerd noted that resolutions 2015 1-10 would be considered together. He called for a motion to adopt the resolutions through one omnibus vote. Mr. Smith moved to adopt the motion and Mr. Bailey seconded the motion.

Mr. Zelazny commented that New York echoes Illinois' thoughts. He said that implementation is an adaptive management process that will continue to evolve. Programs will adjust accordingly, and he welcomes comments from constituents.

Mr. Injerd called for a roll call vote.

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

The omnibus vote to adopt the joint Declarations of Finding passed.

Announcement of Ohio as Chair and Ontario as Vice Chair

Mr. Injerd noted that pursuant to the terms of the Agreement, the Regional Body Vice Chair (Governor Kasich of Ohio) will become Chair on December 13, 2015. The Premier of the Province of Ontario (Premier Wynne of Ontario) will become Vice-Chair. Mr. Injerd thanked the Regional Body members for the opportunity to serve as Chair during the past year, for everyone's involvement.

Other business.

None.

A motion was made by Ms. Ekman to adjourn. Mr. Trigger seconded the motion. All members voted in the affirmative so the motion was approved and the meeting was adjourned at 10:30 a.m. CST. 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.gslsregionalbody.org.