

Great Lakes—St. Lawrence River Basin Water Resources Council
Meeting Summary
Ambassador East Hotel
1301 N. State Parkway
Chicago, Illinois
December 8, 2008

Notice:

Notice of the meeting was provided to the public through the Great Lakes Information Network's distribution list on November 7, 2008. Notice was also posted to the Council of Great Lakes Governors' website at www.cglg.org. Additional notifications were also sent via email and other means to the public prior to the meeting date.

Call of Meeting:

3:00 p.m. CST—The meeting was called to order by David Naftzger, Executive Director of the Council of Great Lakes Governors.

Mr. Naftzger thanked the audience attending the inaugural meeting of the Great Lakes—St. Lawrence River Basin Water Resources Council (the Compact Council). He noted that all resolutions to be considered, and other meeting materials, were made publicly available on the website of the Council of Great Lakes Governors, and that hard copies were also available at this meeting on a handout table.

Mr. Naftzger then provided an overview of the Council of Great Lakes Governors, noting that it is a partnership among the eight Great Lakes Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin. He went on to note that the Governors serve as the Council's Board of Directors and tasked the Council with facilitating the development and negotiation of the Great Lakes—St. Lawrence River Basin Water Resources Compact (the Compact) and the companion Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement (Agreement) among the Great Lakes States, Ontario and Québec. He finally noted that the Council of Great Lakes Governors serves as Secretariat to the Great Lakes-St. Lawrence River Water Resources Regional Body (Regional Body) created by the Agreement.

He further noted that the eight Great Lakes Governors endorsed the Compact on December 13, 2005, and have been working aggressively over the past several years to implement its terms, which to be fully effective required ratification by each State legislature and the consent of Congress. Accordingly, Mr. Naftzger noted for the record that the following actions were taken:

- On February 2, 2007, Governor Pawlenty signed Minnesota's Compact ratification legislation, 2007 Session Law Chapter 2. Its effective date was "upon ratification of all States and the consent of Congress."
- On August 17, 2007, Governor Blagojevich signed Illinois' Compact ratification legislation, Public Act 095-0238. Its effective date was the date of signature.

- On January 20, 2008, Governor Daniels signed Indiana’s Compact ratification legislation, Senate Enrolled Act 45. Its effective date was July 1, 2008.
- On March 4, 2008, then-Governor Spitzer signed New York’s Compact ratification legislation, Chapter 27. Its effective date was the date of signature.
- On May 27, 2008, Governor Doyle signed Wisconsin’s Compact ratification legislation, Wisconsin Act 227. Its effective date was the date of signature.
- On June 27, 2008, Governor Strickland signed Ohio’s Compact ratification legislation. Its effective date is December 8, 2008.
- On July 4, 2008, Governor Rendell signed Pennsylvania’s Compact ratification legislation, Act. No. 43. Its effective date was the date of signature.
- On July 9, 2008, Governor Granholm signed Michigan’s Compact ratification legislation, Public Act 190 of 2008. Its effective date was July 17, 2008.
- On October 3, 2008, President Bush signed the U.S. Congress’s consent legislation, Public Act 110-342.

Mr. Naftzger then stated that pursuant to Section 9.4 of the Compact, nine copies (one to be retained by each State and one for the archives of the Compact Council) have been signed by each Governor, attested to by the respective Secretaries of State, and have caused the seals of the States to be affixed. He announced that he had one copy of the signed Compact at the desk for those interested in viewing it.

He then announced that, pursuant to the terms of the Compact and the various actions taken, it was his honor to announce that the Compact officially comes into force as State and federal law today--December 8, 2008. He noted that this is a historic accomplishment.

In order to begin the Compact Council’s inaugural meeting, Mr. Naftzger then conducted a roll call of the members. He first noted that, as spelled out in Sections 2.2 and 2.3 of the Compact, the membership consists of the Governors of the Party States, ex officio. Each member shall appoint at least one alternate who may act in his or her place and stead, with the authority to attend all meetings of the Council and with the power to vote in the absence of the member.

In advance of this meeting, each Governor appointed his or her alternate.¹

Roll Call:

The following Compact Council members, constituting a quorum, were present:

¹ Copies of alternate appointment forms are available upon request.

Illinois (alternate of Governor Rod Blagojevich): Gary Clark, Director, Office of Water Resources, Illinois Department of Natural Resources.

Indiana (alternate of Governor Mitch Daniels): David Phippen, Policy Director for Environment and Natural Resources, Office of Governor Mitch Daniels.

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

Minnesota (alternate of Governor Tim Pawlenty): Kent Lokkesmoe, Director, Division of Water, Minnesota Department of Natural Resources.

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

Pennsylvania (alternate of Governor Ed Rendell): Cathleen Curran Myers, Deputy Secretary, Office of Water Management, Pennsylvania Department of Environmental Protection.

Wisconsin (alternate of Governor Jim Doyle): Matt Frank, Secretary, Wisconsin Department of Natural Resources.

New Business

Review and vote on Resolution #1—Election of Chair and Vice-Chair

A motion was made by Mr. Lokkesmoe of Minnesota to adopt Resolution #1—Election of Chair and Vice-Chair. The motion would elect Governor Doyle of Wisconsin as Compact Council Chair and Governor Daniels of Indiana as Vice-Chair. The motion was seconded by Mr. Clark of Illinois.

Mr. DeBeaussaert of Michigan then made a motion to provide an opportunity for the public to provide comments on each of the resolutions pending before the Compact Council before a vote was taken on each resolution. The motion was seconded by Mr. Logan of Ohio, and approved without objection.

No comments were received, and the question was called on Resolution #1. The motion was approved without objection.

Mr. Frank of Wisconsin then stated that Governor Doyle was deeply honored to be chosen as the first Compact Council Chair. He noted that Governor Doyle had worked very hard to get the Compact passed into law, and wanted to thank all the staff at the Council of Great Lakes Governors, the State agencies, and the work of others. In particular, on behalf of Governor Doyle, he wanted to thank all of the stakeholders that were involved in the process.

He then noted that the Great Lakes Governors have an historic opportunity to, in a collaborative fashion, sustainably manage the Great Lakes. He also noted that the Governors' power derives from the fact that the Compact is now law. He remarked that the Governors would like to recognize that this is an opportunity to celebrate, but at the same time, believe that now the work must begin to follow through on the promise of the Compact. He closed by noting that he looks forward to working with all of the Compact Council members.

Mr. Pippen of Indiana, speaking on behalf of Governor Daniels, stated that the Governor sends his greetings and thanks, not just to the members of the Compact Council but to the individuals in the audience. He recognized that the reason that the Compact Council members were around the table was because of the public's participation in resolving the issues that arose when the Compact was being developed and placed into law. He also stated that others can use this as an example of how we can do things well by working together, and that he looks forward to working with all the Compact Council members and the broader stakeholder community.

Review and vote on Resolution #2—Adoption of By-Laws and Interim Guidance

A motion was made by Mr. Pippen of Indiana to adopt Resolution #2—Adoption of By-Laws and Interim Guidance. The motion was seconded by Mr. Lokkesmoe of Minnesota.

Ms. Myers of Pennsylvania noted that with respect to the Interim Guidance, there are several instances where the application process is discussed. She expressed concerns that there may be some confusion and concerns because it appears that the Originating Party will “stand in the shoes” of the Applicant during the Compact Council review process, but that the Originating Party will not be the Applicant. She also stated that she thought it would be odd for the Originating Party to provide notice of applications. However, she agreed that there would be opportunity to change this provision in the future, and that further clarification and changes could be made in more permanent rules.

Mr. Naftzger in response noted that the language of the Interim Guidance was not intended to preclude discussions between the Applicant and the Compact Council or others, and confirmed that the Interim Guidance does not consist of legal rules but simply guidance.

Mr. Logan of Ohio asked whether the Interim Guidance was meant to only address diversion proposals that come before the Compact Council for approval. In response, Peter Johnson of the Council of Great Lakes Governors staff noted that the Interim Guidance does primarily focus on such proposals, but that the last section of the Interim Guidance focused on the process for developing more permanent rules for the Compact Council.

Pursuant to the previously approved motion, the floor was then opened for public comments.

- Kay Nelson, Northwest Indiana Forum: Ms. Nelson asked if the Compact Council would develop rules only in the absence of rule-making at the State level. In response, Peter Johnson remarked that the States can make their rules as needed and the Compact Council will make rules for the issues that it will be addressing, such as for diversion proposals.

The question was then called, and Resolution #2 was adopted without objection. Governor Paterson's Alternate submitted his approval of the resolution in writing.²

² Copies of all such approvals are available upon request.

Resolution #3—Executive Director and Secretariat

A motion was made by Mr. Frank of Wisconsin to adopt Resolution #3—Executive Director and Secretariat. The motion was seconded by Mr. Clark of Illinois.

Pursuant to the previously approved motion, the floor was then opened for public comments. No comments were made.

The question was then called and the resolution was adopted without objection. Governor Paterson’s Alternate submitted his approval of the resolution in writing.

Resolution #4—Rules and Regulations Committee

A motion was made by Ms. Myers of Pennsylvania to adopt Resolution #4—Rules and Regulations Committee. The motion was seconded by Mr. Pippen of Indiana.

Mr. Lokkesmoe of Minnesota asked if both the Rules and Regulations Committee and the Procedures Committee formed by the Great Lakes-St. Lawrence River Basin Waters Resources Regional Body (Regional Body) earlier that day would have the same members. In response Mr. Naftzger stated that there is no requirement that the members be the same, but that it is the expectation that they will be.

Pursuant to the previously approved motion, the floor was then opened for public comments. No comments were made.

The question was then called and the resolution was adopted without objection. Governor Paterson’s Alternate submitted his approval of the resolution in writing.

Resolution #5—Adoption of Basin-Wide Conservation and Efficiency Objectives

A motion was made by Mr. Lokkesmoe of Minnesota to adopt Resolution #5—Adoption of Basin-Wide Conservation and Efficiency Objectives. The motion was seconded by Mr. Logan of Ohio.

Pursuant to the previously approved motion, the floor was then opened for public comments.

- Marc Smith, National Wildlife Federation: Mr. Smith pointed out that an Advisory Panel was involved in the development of the Basin-Wide Conservation and Efficiency Objectives, but did not feel that the comments of the environmental community were properly addressed in the objectives adopted by the Regional Body in December 2007.
- Reg Gilbert, Great Lakes United: Mr. Gilbert wanted to remind the Compact Council members that the environmental community was involved with the development of the Basin-Wide Conservation and Efficiency Objectives, and was very disappointed with the final product. He expressed his hope that the objectives would aim higher, because as a region a better example needs to be set. He stated that there is nothing in the objectives that show the region is serious about conservation.

- Dale Phenicie, Council of Great Lakes Industries: Mr. Phenicie stated that he was also a participant on the Advisory Panel to the group that drafted the recommendations for the Basin-Wide Conservation and Efficiency Objectives. He stated that the objectives reflected solid judgment and expressed his support. He then noted his support for the resolution as drafted.

The question was then called and the resolution was adopted without objection. Governor Paterson's Alternate submitted his approval of the resolution in writing.

Reports

Great Lakes—St. Lawrence River Basin Water Resources Regional Body

Mr. Lokkesmoe of Minnesota, who chairs the Regional Body, noted that the Regional Meeting had adjourned just prior to this meeting and therefore had no additional information to report.³

Compact Implementation Timeline

Mr. Naftzger outlined a series of actions that must be taken by each of the States pursuant to the Compact. The deadlines for these actions are predicated on the effective date of the Compact, which is December 8, 2008. In addition, he noted that the baseline and what communities are straddling communities was set as of December 8, 2008, though each of the States still has a commitment to report on what current uses existed as of this date. In addition, he encouraged interested individuals to reach out to the relevant State agencies to discuss implementation issues. Finally, he noted that a document outlining the timeline for Compact implementation is available upon request to the Council of Great Lakes Governors.

Administrative Report

Mr. Naftzger stated that the Council had just been appointed as Secretariat to the Compact Council. He also stated that, if there are any questions, individuals should contact the Council of Great Lakes Governors staff.

Other Business

Ms. Myers of Pennsylvania noted for the record that pursuant to Section 2.5 of the Compact, Governor Rendell had appointed Pam Bishop with the Pennsylvania Department of Environmental Protection as an Advisor.

Opportunity for public comments.

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

- Andy Buchsbaum, Mr. Buchsbaum stated that he wanted to reiterate comments made before the Regional Body about the importance for creating a public and collaborative participation process. He also stated that he recognized the significant cost of the process used to create the Compact and Agreement, but regardless, expressed his support for some type of similar process for the various undertakings of the Compact Council.

³ A summary of the Regional Body meeting can be found at www.glsregionalbody.org.

In response, Mr. Frank of Wisconsin noted that all of the Compact Council members value the public process but, as with any new organization, growing pains are inevitable. He also stated that he will be talking to Council of Great Lakes Governors staff about how to encourage efficiency and transparency.

Ms. Myers of Pennsylvania stated that she had heard clearly that the Compact Council members do want to have a public process but were unsure of exactly what form that should take. She remarked that she believes the model for the development of the Compact and Agreement won't necessarily work going forward. Accordingly, she expressed her support for an alternative approach. She then emphasized that the Compact Council will welcome suggestions on how to allow effective and efficient input recognizing the large number of issues that the Compact Council and the State agencies generally have to deal with.

Finally, Mr. Naftzger noted that the Compact allows for an Advisory Committees to be formed. In response, Mr. Buchsbaum indicated that he would be happy to help with the process and will provide the Compact Council with recommendations.

- Gary Wilson: Mr. Wilson expressed his concern that the public comment period on drafts of the Compact and Agreement were perfunctory, and encouraged the Compact Council to improve the public comment process. He also noted that when the Compact was before the U.S. Congress for its consent, Representative McCollum of Minnesota raised concerns because she didn't think the Tribes were adequately involved during the development process.

In response, Mr. Frank of Wisconsin noted that Wisconsin has eleven Indian Tribes, that significant dialogue is ongoing and that the State is committed to continuing to work with them.

Mr. DeBeaussaert of Michigan stated that, while there is always room for improvement, there was tremendous public outreach and involvement. He remarked that this robust effort was critically important in building the very large and broad support for the Compact. He noted that over 13,000 comments were received during the public comment periods on the Compact and Agreement. He also recognized that the Council of Great Lakes Governors staff met with many legislators and participated in numerous meetings with legislators, stakeholders and other interested individuals.

Mr. Naftzger went on to note that in addition to the 13,000 public comments received, there were more than 60 public meetings held across the region to solicit input. In addition, there were individual and regional consultations and meetings with Tribes, First Nations and others.

Finally, Mr. Logan of Ohio echoed Mr. DeBeaussaert's and Mr. Naftzger's statements and noted that there were extensive forums in Ohio. The legislature in

Ohio found it very persuasive that the Compact and Agreement had been developed through an open and public process.

Adjournment

Mr. Frank of Wisconsin thanked everyone for their participation at this historic occasion and expressed his appreciation for everyone's continued involvement in protecting the Great Lakes.

Mr. DeBeaussaert of Michigan made a motion to adjourn which Mr. Phippen of Indiana seconded. The motion carried unanimously.

The next meeting of the Compact Council will be set and noticed at a future date.

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