

Great Lakes—St. Lawrence River Basin Water Resources Council
Meeting Summary
Conference Call Meeting
December 8, 2009
3:00 p.m. EDT

Notice:

Notice of the meeting was provided to the public through the Great Lakes Information Network's distribution list on November 6, 2009. Notice was also posted at the same time to the Council of Great Lakes Governors' website at www.cglg.org. A notice was provided through the same means on December 1, 2009 announcing that the meeting agenda, draft resolutions and materials to be discussed were available at www.cglg.org.

Call of Meeting:

3:00 p.m. EDT—The meeting was called to order by Matt Frank, designee of Great Lakes—St. Lawrence River Basin Water Resources Council (Compact Council) Chair, Governor Jim Doyle.

Roll Call:

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

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

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

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; Jim Japs, Deputy Director, Division of Water, Minnesota Department of Natural Resources.

New York (alternate of Governor David A. Paterson): Jim Tierney, Assistant Commissioner for Water Resources, New York State Department of Environmental Conservation.

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

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

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

Actions Taken

Review of September 22, 2009, Compact Council meeting minutes.

A motion was made by Mr. Tierney of New York to formally approve the minutes of the September 22, 2009, Compact Council meeting. The motion was adopted without objection.

Reports

Noting that the meeting of the Great Lakes-St. Lawrence River Water Resources Regional Body (Regional Body) adjourned immediately prior to the Compact Council meeting, a motion was made by Mr. Lokkesmoe of Minnesota to incorporate minutes of the Regional Body reports into the Compact Council minutes. Mr. DeBeaussaert of Michigan asked if any listener on the call had not participated in the Regional Body meeting. No response was given.

The motion was approved without objection. Pursuant to the approved motion, the following reports are incorporated by reference into the Council's record and re-printed in their entirety below:

- *Council of Great Lakes Governors Water Resource Managers Initiative*
- *Procedures Committee (for the Rules & Regulations Committee Report)*
- *Council of Great Lakes Governors Water Use Information Committee.*
- *Provincial/State Reports: Water Management; Conservation and Efficiency; Baseline.*

Reports

Council of Great Lakes Governors Water Resource Managers Initiative

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

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

Procedures Committee

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

Peter Johnson of the Regional Body Secretariat reported that the Procedures Committee, which is chaired by Mr. White of Indiana, had been meeting via conference call since the spring of 2009. The Procedures Committee has met jointly throughout the process with the Great Lakes-St. Lawrence River Basin Water Resources Council's (Compact Council) Rules & Regulations Committee. The Joint Committee has made substantial steps forward in creating recommendations, including the creating of draft "Contents of an Application" documents. It was further reported that early drafts of those documents

have been shared with the Joint Committees' Advisory Panels, Resource Groups and Observers, as well as Tribes and First Nations. Comments have been received from those organizations, and changes had been made accordingly.

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

Council of Great Lakes Governors Water Use Information Committee.

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

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

Provincial/State Reports: Water Management; Conservation and Efficiency; Baseline.

Each Regional Body designee provided an update on their jurisdiction's efforts to implement the Agreement including the Great Lakes—St. Lawrence River Basin Water Resources Compact (Compact) legislation or other mechanisms as appropriate.

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

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

Illinois—Illinois submitted both reports.

With regard to the reports, it was noted that Illinois manages its program pursuant to the terms of the U.S. Supreme Court decree entered under Wisconsin et al. v. Illinois et al. As part of that program, the State has a robust conservation program, with a full regulatory standard on water loss. Limited diversions are allowed to meet the needs in

the region. The program also addresses practices for end users via building codes and ordinances which have improved overall management.

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

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

Indiana—Indiana submitted both reports.

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

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

Michigan—Both reports were submitted.

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

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

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

Minnesota—Both reports were submitted.

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

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

New York—Both reports were submitted.

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

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

Ohio—Both reports were submitted

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

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

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

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

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

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

Pennsylvania— Both reports were submitted.

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

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

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

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

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

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

Wisconsin—Both reports were submitted.

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

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

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

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

Opportunity for public comments.

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

Noting that the meeting of the Great Lakes-St. Lawrence River Water Resources Regional Body (Regional Body) adjourned immediately prior to the Compact Council meeting, a motion was made by Mr. White of Indiana to incorporate minutes of the Regional Body public comments into the Compact Council minutes.

The motion was approved without objection. Pursuant to the approved motion, the following public comments are incorporated by reference into the Council's record and re-printed in their entirety below:

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

Mr. Glatfelter also indicated that he thought that the Water Conservation and Efficiency Program reports should also include performance measure and how they are met and noted that the submitted reports did not include them. He indicated that in the future it would be important to include that information.

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

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

No additional comments were provided by the public.

Old Business

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

Mr. Ambs of Wisconsin noted that during its June 17 meeting, and pursuant to the terms of Section 2.9 of the Compact, the Compact Council adopted Resolution Number 7 which created an Advisory Committee. The Resolution directed the Chair to develop a list of recommended members, and to coordinate this work with the Regional Body Chair.

Accordingly, and in coordination with the Regional Body Chair, Mr. Ambs recommended that invitations be sent to the prospective members of the Advisory Committee, Resource Group and Observers as listed in the document previously distributed to the Compact Council members, and which is available on the Council of Great Lakes Governors website. Mr. Myers of Pennsylvania moved that the recommendations be accepted, and the motion carried without objection.

New Business

Adoption of interim water use reporting protocols.

Mr. Ambs of Wisconsin stated that the first order of new business was consideration of *Compact Council Resolution #9-Adoption of Water Use Reporting Protocols*. He noted that the members had previously heard a report from the Co-Chairs of the Council of Great Lakes Governors' Water Use Information Committee that drafted recommended protocols for the Compact Council's consideration. He also noted that the resolution before the Compact Council would adopt the recommended protocols.

Mr. Tierney of New York moved that Resolution #9 be adopted, and the motion was approved without objection.

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

Mr. Ambs of Wisconsin then noted that the next order of new business was the discussion of *Compact Council Resolution #10—Adoption of Fiscal Year 2010 Budget—Third and Fourth Quarters (January 1-June 30, 2010)*. He further noted that the proposed budget and a resolution adopting the budget were previously distributed to the Compact Council and was posted to the Compact Council's website. Mr. Naftzger provided a brief overview of the budget.

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

Illinois—Yes

Indiana—Yes

Michigan—Yes

Minnesota—Yes

New York—Yes

Ohio—Yes

Ontario—Yes

Pennsylvania—Yes

Québec—Yes

Wisconsin—Yes

Leadership Transition-- Election of Chair and Vice-Chair.

Mr. Ambs then introduced Resolution #11. He indicated that the text of the resolution and pursuant to Section 2.5 of the Compact, Resolution #11—Election of Chair and Vice-Chair would elect Governor Daniels to serve as the Compact Council Chair beginning at the conclusion of this meeting until the next Annual Meeting of the Compact Council, to be held on or about December 8, 2010. It would also elect Governor Granholm to serve

as the Vice Chair during the same time period. He also noted that Governor Daniels currently serves as Vice-Chair.

A motion was made by Mr. Tierney of New York to approve the resolution, and it was adopted without objection.

Other Business

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

Accordingly, Ms. Myers made the following motion:

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

The motion was seconded by Mr. Clark of Illinois. Mr. Lokkesmoe of Minnesota stressed that the Compact Council members do need to consider the current budget situation that the States face, and have travel restrictions.

The Chair called for a vote on the motion:

Illinois—Yes
Indiana—Yes
Michigan—Yes
Minnesota—No¹
New York—Yes
Ohio—Yes
Ontario—Yes
Pennsylvania—Yes
Québec—Yes
Wisconsin—Yes

Adjournment

¹ Mr. Lokkesmoe of Minnesota qualified his vote by noting that he was not opposed to face-to-face meetings, but thought that it would be difficult to find the staff time or money to meet face-to-face any time in the near future.

A motion was made by Mr. Lokkesmoe of Minnesota to adjourn the meeting. The motion was seconded by Mr. Tierney of New York and adopted without objection.

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