

Great Lakes—St. Lawrence River Basin Water Resources Council
Meeting Summary
December 8, 2011
2:45 p.m. EST

Notice:

Notice of the meeting was provided to the public through the Great Lakes Information Network's distribution list on November 8, 2011. Notice was also posted to the Great Lakes-St. Lawrence River Water Resources Council (Compact Council) website at www.glscompactcouncil.org. The notice included an announcement that the meeting agenda, draft resolutions and materials to be discussed during the meeting were available on the Compact Council's website.

Call of Meeting:

3:15 p.m. EDT—The meeting was called to order by Dan Injerd, alternate of Compact Council Chair, Governor Pat Quinn.

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 (via conference call); Daniel Injerd, Manager, Lake Michigan Management Section, Office of Water Resources, Illinois Department of Natural Resources.

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

Michigan (alternate of Governor Rick Snyder): Grant Trigger, Michigan Cleanup Manager, RACER Trust. Mr. Frank Ruswick of the Michigan Department of Environmental Quality also participated in the meeting.

Minnesota (alternate of Governor Mark Dayton): Dale Homuth, Conservation Assistance and Regulatory Program Manager, Minnesota Department of Natural Resources.

New York (alternate of Governor Andrew Cuomo): Don Zelazny¹ on behalf of Jim Tierney, Assistant Commissioner for Water Resources, New York State Department of Environmental Conservation.
(via conference call).

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

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

Wisconsin (alternate of Governor Scott Walker): Matt Moroney¹ 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 9, 2011 Compact Council meeting minutes.

A motion was made by Mr. Homuth to formally approve the minutes of the June 9, 2011, Compact Council meeting.

Mr. Lozier moved to amend the minutes to note that bills have been introduced by the “General Assembly,” not the “General Assembly and the Senate.” The amendment was adopted without objection.

The motion to adopt the June 9, 2011 meeting minutes, as amended, was adopted without objection.

Review of August 4, 2011 Compact Council meeting minutes.

A motion was made by Mr. Adams to formally approve the minutes of the August 4, 2011, Compact Council meeting. The motion was adopted without objection.

Reports

State updates on implementation of the Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement (Agreement); Water conservation and efficiency goals and objectives; Water conservation and efficiency programs.

Noting that the meeting of the Regional Body recessed immediately prior to the Compact Council meeting, a motion was made by Mr. Adams to incorporate minutes of the Regional Body reports into the Compact Council minutes.

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

Tribes/First Nations Dialogue.

Mr. Gaucher reported that on August 26 the Regional Body and Compact Council issued a Request for Proposals to help develop information, analysis and options regarding how to best share science, data and technical information on a regional basis among the States, Provinces, Tribes and First Nations, and realize shared ecological goals. A number of high-quality proposals were received and, following a review and interview process, the law firm of Godfrey & Kahn was selected to provide consulting services. Brian Pierson will serve as project lead, and he will be working closely with his colleagues John Clancy and Jessica Franklin. Mr. Gaucher also reported that a workplan is being developed and further discussions will be held in coming weeks and months with the representatives of the Tribes and First Nations regarding planned work.

No questions were raised by Regional Body members.

State and Provincial updates on implementation of the Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement (Agreement); Water conservation and efficiency goals and objectives; Water conservation and efficiency programs.

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

In addition, each of the States and Provinces was asked to report on the status of its Water Conservation and Efficiency goals and objectives, as well as its Water Conservation and Efficiency program. The States' goals, objectives and programs were to be developed by December 8, 2010, pursuant to the Compact.

Illinois

Mr. Injerd reported that the State's second Water conservation and efficiency report was submitted to the Compact Council and Regional Body in early November of 2011. The report describes what the State has been doing over the last year to remain in compliance with the Illinois Diversion U.S. Supreme Court consent decree. The State continues to see reductions in water use. Along those lines, the State sees impacts of significant water rate increases that have occurred in the Chicago region. The region will see a dramatic increase in water rates over the next three years.

Regarding allocation permits in Lake County for 10 communities, Mr. Injerd noted that they now have the right to use Lake Michigan water, but none have used that right as of yet. Regardless, all of the communities will have to comply with water conservation and efficiency program requirements to fulfill the conservation component of the permit. Mr. Injerd closed by noting that he would be happy to take questions after the meeting.

Indiana

Mr. McAhron reported that Indiana's water conservation and efficiency report was submitted to the Compact Council and Regional Body and is now available on their websites. He stated that the Indiana Compact statute included implementation components and, using those components, fast-tracked temporary rules regarding water conservation and efficiency that are effective for two years. Included in the temporary rules is a general license for agricultural irrigators.

The State's water conservation and efficiency program used as its starting point the State's existing registration system that has been in place since 1985. Required registration reports were used to reach out to entities that have been withdrawing water to increase their awareness of opportunities to conserve and use water more efficiently.

Michigan

Mr. Trigger asked Mr. Ruswick to provide a report on Michigan's activities.

Mr. Ruswick reported that the State's conservation and efficiency assessment had been submitted to the Regional Body and Compact Council on November 22 and posted to their websites. He noted that Michigan adopted water conservation and efficiency goals

and objectives in 2010, and that the report submitted to the Regional Body and Compact Council was organized around those goals.

Mr. Ruswick also noted that objections had been raised about the failure by the State to take public comment. He noted that the report is available on the State's website, and that water conservation and efficiency goals and objectives are also available for comment.

Mr. Ruswick also highlighted some of the water withdrawal assessment standards. He noted that the State's water assessment tools allow parties to contribute to achieving water conservation and efficiency goals, and the State's recently submitted water conservation and efficiency assessment gives examples. The State is also creating an online reporting system that will allow for greater efficiency.

He also noted that the Secretary of the Department of Environmental Quality is reconvening the water resources advisory council that was the primary developer of the water withdrawal assessment system, and the agency is seeking funding for its work.

Minnesota

Mr. Homuth reported that the State of Minnesota had submitted its water conservation and efficiency assessment to the Regional Body and Compact Council and that the assessment was now available online.

He also reported that there were no significant changes to water management rules or programs. He also reported that despite budget issues in the State of Minnesota, the legacy amendment makes clean water money available for running State programs, which Minnesota is using for its online water permit program, allowing users to register and pay online. In Minnesota, anyone using more than 10,000 gallons per day or 1 million gallons per year needs a permit, and is therefore 'registered.' Also, Minnesota has a law requiring all public water suppliers serving more than 1000 people to adopt a water conservation rate structure. By January 1, 2013, all public water suppliers in the Lake Superior watershed serving more than 1000 people must have adopted such a rate structure.

Mr. Homuth also reported that the University of Minnesota completed a water sustainability framework. Included in the framework are recommendations that will be used for a water conservation and efficiency program. The framework is also likely to drive future funding, which will be used in turn to upgrade the water appropriation and use system in the State.

New York

Mr. Zelazny reported that in April of 2011, New York passed a statewide environmental conservation law. This new statewide law included a water resources management program that addressed the provisions of the Compact. It also includes the Agreement's conservation and efficiency goals. Since then, the State has been working on developing implementing regulations that were released for public comment a week and a half ago.

In addition, the State is going to require permits for all facilities with a withdrawal capacity of over 100,000 gallons per day. This new requirement will be phased in. Current public water supply permits will be grandfathered, and new withdrawals will be permitted the following year. Further information is available at <http://www.dec.ny.gov/regulations/78258.html>

He also noted that New York had submitted its water conservation and efficiency program assessment report, and that it was now available on the Regional Body and Compact Council websites. Program guidance is now under development in the State. He also noted that the State was working with the New York office of the U.S. Geological Survey to further the program, and plans to go statewide with the water conservation and efficiency program in the future.

Ohio

Mr. Lozier reported that when the Compact became effective an Advisory Committee was formed to develop recommendations on implementation. Starting in the spring, an implementing bill was developed by the legislature and passed through the General Assembly. The Governor vetoed the bill. There is now an ongoing discussion, including with stakeholders, users and legislators to work through the outstanding issues, and it is anticipated that updated legislation will be introduced in the next couple of months.

With regard to the water conservation and efficiency assessment, the State will be submitting their report later today. Mr. Lozier noted that they are looking to develop administrative rules shortly, and the Department of Natural Resources (DNR) is coordinating with other State and local agencies to further develop their water management programs, including statewide efforts.

The DNR is creating plans and assessments for sub-watersheds within the Lake Erie Basin, that evaluate existing water withdrawals to determine their impacts on stream-flow and look at water withdrawal trends to identify areas that may experience problems in the future. The agency is also working to provide education at the K-12 level on water conservation and efficiency.

Pennsylvania

Mr. Adams noted that the Commonwealth had completed its State water plan in 2009. The water plan had both a regional component (6 regions) and statewide component. A water technical assistance center was created as a non-profit (savewaterpa.org). This is part of the Commonwealth's effort to promote voluntary water conservation measures. The long-term goal is to make this site a repository for water conservation and efficiency information.

The Commonwealth also enacted regulations for water resource planning under Chapter 110, which applies to public water supply agencies (community systems), hydropower facilities, and any person whose total withdrawal from one or more points of withdrawal within a watershed operated as a system either concurrently or sequentially exceeds an

average rate of 10,000 gallons per day of water in any 30-day period. Additionally, those persons who obtain their water through an interconnection with another person in an amount that exceeds an average rate of 100,000 gallons per day in any 30-day period must register. Registrants must annually report their water usage and other information and retain records for at least 5 years.

Wisconsin

Mr. Moroney reported that the State's water conservation and efficiency assessment was submitted to the Regional Body and Compact Council on November 23. It is available on both entities' websites. He also noted that under the current State law, a permit is required for all water withdrawals over 100,000 gallons per day in the Great Lakes Basin. He also reported that administrative rules have been promulgated regarding water conservation and efficiency, water use fees and water permitting rules.

Opportunity for public comments.

Noting that the meeting of the Regional Body adjourned immediately prior to the Compact Council meeting, a motion was made by Mr. Moroney to incorporate comments and questions made by the public during the public comment portion of the Regional Body meeting into the Compact Council minutes.

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

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

- Sara Gosman, National Wildlife Federation (NWF): Ms. Gosman thanked the members of the Regional Body and Compact Council for holding the meeting in person and taking public comments. She noted that the NWF continues to take pride in having been a major participant in the development and implementation of the Compact since the beginning.

She reminded the audience that NWF did a report in July on the States' status on implementing the Compact. She also noted that the report did not include the Provinces, because the Agreement had not yet come into force. The report was released because NWF thought it would be helpful in advancing implementation efforts. As part of that report, they noted that there were some good things, such as the good process Wisconsin was using to review the application from Waukesha for a diversion. The Ohio Advisory Board was also noted as a good effort, in particular the recommendations that were made regarding a proposed water conservation and efficiency program.

She also noted that while the State of Michigan's water assessment was a good tool, there are concerns regarding its implementation, specifically with regard to the lack of rules. She also raised concerns regarding Illinois' conservation requirements and allocation system.

She also thanked the Governor of Ohio for vetoing the Compact implementation bill that had passed through the General Assembly over the summer.

An ongoing issue of concern for NWF is the implementation of water conservation and efficiency programs. NWF feels that adequate resources and public participation are necessary to adequately implement the programs. A particular focus needs to be on:

1. State goals and objectives consistent with regional goals and objectives;
 2. An adequate program for existing users; and,
 3. State conservation measures.
- Cary McElhinney, US Environmental Protection Agency Region 5: Mr. McElhinney wished to remind the members of the Regional Body about the U.S. EPA's Water Sense Program. He noted that there are a number of reports available. He also stated that he appreciates the engagement of the States, and encourages others to engage and participate in this effort. He also noted that there has been engagement with Environment Canada on this process.
 - Kristy Meyer, Ohio Environmental Council: Ms. Meyer stated that she appreciates the reports on what has been happening in the States, and thanked Governor Kasich for vetoing the Compact implementation bill that passed the General Assembly. She also stated that they feel more confident that future legislation that is passed by the General Assembly will comply with the Compact.
 - Marc Smith, NWF: Mr. Smith thanked the Regional Body for hosting the meeting. He then stated that as discussed during the meeting with the Advisory Committee, he wanted to thank the Regional Body members for listening to NWF and the other stakeholders on proposals. The signatories to a letter sent to the Regional Body members will be getting together soon to discuss next steps.
 - Jared Teutsch, Alliance for the Great Lakes: Mr. Teutsch thanked the members of the Regional Body for hosting the meeting in Chicago, for the actions to be taken today and the positive actions overall. He also stated that he looks forward to continuing to work with the members of the Regional Body.

Mr. Teutsch stated that he is concerned about the long-term sustainability of the budget for the Regional Body and Compact Council, and encouraged the members to address this issue.

New Business

Resolution #20 Adoption of Fiscal Year 2013 Budget (July 1, 2012-June 30, 2013).

Mr. Injerd 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 November 8. A revised draft resolution was distributed on December 8. Mr. Moroney moved to approve the resolution as presented on December 8.

Mr. Trigger next stated that the original resolution as proposed on November 8 did not discuss revenue measures for the budget. He stated that he would not support the resolution as drafted on November 8 nor as presented on December 8 because it implied endorsement that the Great Lakes Protection Fund would be the primary source of funding. Accordingly, Mr. Trigger moved that in the first resolved section, the line beginning with “1.” be revised to read as follows:

- “1. Written confirmation by the proposed or other Sources of Income (see below) of their intention to provide or include in their budgets (as appropriate) the requested funds to support this budget; and,”

The motion to amend the resolution was adopted without objection.

The question was then called on the December 8, 2011 version of the resolution as amended, and a roll-call vote was taken.

Illinois—Yes
Indiana—Yes
Michigan—Yes
Minnesota—Yes
New York—Yes
Ohio—Yes
Pennsylvania—Yes
Wisconsin—Yes

The resolution was approved on a unanimous vote.

Mr. Lozier had to leave the meeting and did not vote on the remaining resolutions considered by the Compact Council.

Resolution #19 Appointment of Compact Council Secretary.

Mr. Injerd explained that the proposed resolution would appoint the Deputy Director of the Council of Great Lakes Governors, ex officio, to serve as the Secretary of the Compact Council. The CGLG provides administrative secretariat services to the Compact Council. Mr. David Naftzger, as Executive Director of the Council of Great Lakes Governors, would continue to serve as the Executive Director of the Compact Council.

Mr. Trigger moved that the resolution be adopted. The resolution was adopted without objection.

Resolution #21 Modification of Water Use Reporting Protocols.

Mr. Injerd reported that the proposed resolution is substantively the same as the one previously adopted by the Regional Body. Specifically, the only proposed change is to

clarify that uses considered under the Self-Supply Commercial and Institutional category would be limited to those that would not otherwise be considered Public Water Supplies.

Mr. Homuth moved that the resolution be adopted. The resolution was adopted without objection.

Mr. Injerd moved that the Compact Council take a recess. The motion was adopted without objection.

Following a 5-minute recess.

Resolution #22 Election of Chair and Vice-Chair.

Mr. Injerd noted that the original intention was to have the next Chair of the Regional Body also serve as the Chair of the Compact Council. He noted that the Governor of Pennsylvania was set to be the next Chair of the Regional Body, and accordingly, was being nominated to serve as Chair of the Compact Council in this resolution. He next noted that the Governor of Wisconsin had been chosen to serve as the next Vice-Chair of the Regional Body during the previously adjourned Regional Body meeting. He next noted that the proposed Resolution #22 included a blank for who would serve as the Vice-Chair, and proposed that the Governor of Wisconsin serve as Vice-Chair of the Compact Council. Therefore, the resolution as modified would elect the Governor of Pennsylvania, Governor Corbett, to serve as the Compact Council Chair and would elect the Governor of Wisconsin, Governor Walker, as Compact Council Vice-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, 2012.

Mr. Trigger moved that the resolution be adopted as modified. The resolution was adopted without objection.

Mr. Injerd then congratulated Pennsylvania on the election, and stated that the Compact Council had great staff to work with. He also noted that there are a number of major issues that may be pending before the Compact Council, but that the Commonwealth would have the support of the other States throughout this effort, reflecting on the strong cooperation to date.

Other Business

Mr. Injerd announced that, as reported earlier, on August 26, the Regional Body and Compact Council issued a Request for Proposals to help develop information, analysis and options regarding how to best share science, data and technical information on a regional basis among the States, Provinces, Tribes and First Nations, and realize shared ecological goals. Godfrey & Kahn was selected to provide consulting services.

He also reported that a consulting agreement has been developed between the Compact Council, the Council of Great Lakes Governors on behalf of the Regional Body, and Godfrey & Kahn in the amount of \$75,000 plus expenses and was provided to the Compact Council members. Money was included in the FY 2012 budget which was

approved on August 4, 2011. Pursuant to the Compact Council by-laws, all agreements over \$25,000 must be approved by the Compact Council members before they can be executed.

Mr. Trigger proposed the following resolution be adopted:

“Resolution for Approval of Consulting Service Contract

WHEREAS, Article 5 of the Great Lakes-St. Lawrence River Basin Water Resources Compact requires consultation with federally recognized Tribes; and,

WHEREAS, following a request for proposals entitled “Improving Dialogue with Tribes and First Nations” and an interview process, it has been recommended that the firm of Godfrey & Kahn be retained to assist the Council in the consultation process with Tribes and First Nations.

THEREFORE BE IT RESOLVED that the Executive Director is hereby authorized to execute a consulting serve agreement with Godfrey & Kahn in amount not to exceed \$75,000.

BE IT FURTHER RESOLVED that prior to the Executive Director executing the proposed agreement full funding of the contract amount of \$75,000 must be secured.”

The motion was approved without objection.

Adjournment

A motion was made by Mr. Homuth to adjourn. The motion carried without objection. The next meeting of the Compact Council will be set and noticed at a future date.

The full text of the materials discussed at the meeting is available online at www.compactcouncil.org.