

**Great Lakes—St. Lawrence River Basin Water Resources Council**  
**Meeting Summary**  
June 21, 2018  
10:15 a.m. EDT

**Notice:**

Notice of the meeting was provided to the public through the Great Lakes Information Network's distribution list on May 22, 2018. Notice was also posted to the Great Lakes-St. Lawrence River Water Resources Council (Compact Council) website at [www.glscompactcouncil.org](http://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-in information was also posted to the front page of the Compact Council website.

**Call of Meeting:**

9:50 a.m. EDT— The meeting was called to order by Julie Ekman, alternate of Minnesota Governor Mark Dayton.

**Roll Call:**

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

**Illinois (alternate of Governor Bruce Rauner):** Dan Injerd (Ret.), Illinois Department of Natural Resources.

**Indiana (alternate of Governor Eric Holcomb):** Chris Smith, Deputy Director, Indiana Department of Natural Resources.

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

**Minnesota (alternate of Governor Mark Dayton):** Julie Ekman, Conservation Assistance and Regulations Section Manager, Minnesota Department of Natural Resources.

**Ohio (alternate of Governor John Kasich):** Mike Halfrisch<sup>1</sup>, on behalf of James Zehringer, Director, Ohio Department of Natural Resources.

**Pennsylvania (alternate of Governor Tom Wolf):** Tim Bruno, Chief, Office of the Great Lakes, Pennsylvania Department of Environmental Protection

**Wisconsin (alternate of Governor Scott Walker):** Adam Freihoefer<sup>1</sup>, Water Use Section Chief, on behalf of Dan Meyer, Secretary, Wisconsin Department of Natural Resources.

**Actions Taken**

***Review of December 8, 2017 Compact Council meeting minutes***

Mr. Smith requested that the December 8, 2017 Compact Council meeting minutes be approved as posted. Mr. Freihoefer seconded the motion. The minutes were approved without objection.

## **Reports**

Noting that the Regional Body meeting adjourned immediately prior to the Compact Council meeting, a motion was made by Mr. Bruno to incorporate minutes of the Regional Body reports into the Compact Council minutes. Mr. Freihoefer seconded the motion. The motion was approved. 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:

### ***State updates on implementation of the Great Lakes—St. Lawrence River Basin Water Resources Compact (Compact).***

#### **Minnesota**

Ms. Ekman reported that Minnesota Department of Natural Resources hired a consultant, ESPWater, to help with a pioneering effort to develop an online water conservation reporting tool. The Department of Natural Resources water conservation reporting system was rolled out in January, allowing public water suppliers to better track water use and evaluate the results of conservation practices. Over 300 public utilities have participated to date. One of the most important outcomes of this first round of reporting was simply getting communities to pay closer attention to their water use and to be more aware of conservation measures that they can put into practice. The first water conservation report based on the information collected will be published by the end of June. The State intends to continue to provide training on using the tool and has begun working with commercial and industrial sectors to tailor the report to their needs. Overall, water conservation is ongoing and evolving. This tool allows users to track, measure and analyze water use, water waste, trends at the local and regional level, and make comparisons with other water users.

#### **Illinois**

Mr. Injerd reported that water use in NE Illinois is on a downward trend which has been continuing over the last fifteen years, with a reduction of 315 million gallons per day. This has been the result of the changing dynamics of use, acceptance of conservation requirements, and huge price increases in the service of Lake Michigan water. Such prices are only likely to go up due to higher water use standards. A big focus has also been on reducing water loss. To that end, the Illinois DNR has brought additional staff on to work with communities to stem water loss. The new water loss standards are challenging, but thus far everyone has understood that meeting those standards is in everyone's long term interest.

The State is also starting a comprehensive water re-allocation, which they do every ten years. The process will result in a realigning of allocation permits with the actual estimated usage. Most communities will see an overall reduction in their permits. The goal is not to put in restrictions, but rather recognize reality. To that end, the State looks at water demand forecasts, business growth, etc... and work with the regional metropolitan planning commission. The real goal is anticipating long term demand to

stay within the Supreme Court consent decree limits, which the State easily remains under.

Mr. Injerd closed by noting that there are no pending new requests for Lake Michigan water.

### **Indiana**

Mr. Smith reported that Indiana completed final passage of the amendment to administrative rules, which was approved by the Attorney General and Governor's Office. The amendment establishes a procedure for abandonment of a baseline volume if not used within a five-year period or if the facility is in a state of disrepair for five years. It also amended the definition of a salmonid stream to fall in line with the definition in statute.

He added that Indiana received several generic inquiries about moving water under the terms of the Agreement/Compact. This is likely connected to an extremely dry spring in Central Indiana. The mid-part of the State jumped onto the drought monitor a couple weeks ago. That, in addition to the announcement of the closing of the NiSource Bailly Station power generation facility (East of the Port of Indiana Burns Harbor), has likely sparked interest.

### **Michigan**

Jim Mills on behalf of Mr. Trigger reported that the Nestle Osceola facility recently approved an increase from 150 gallons per minute to 250 gallons per minute using the Michigan water withdrawal assessment tool. In addition, they were given permission to increase their capacity to 400 gallons per minute. He said that the permit included numerous conditions, including monitoring of streamflow, groundwater and wetlands for one year before and after the increase is implemented. About 85,000 public comments were received on the current application, the vast majority of which were opposed to the increase, though most did not address the permit application criteria or applicable State statutes. It also received a lot of negative coverage in the press and media. A petition for appeal has been filed, and there may also be civil litigation.

In addition, new permit conditions are contained in proposed HB 5638, which is being proposed by farm bureau and other agricultural groups. The bill would affect large quantity withdrawals less than 1 million gallons per day. The bill has passed the house and Senate, and is pending on the Governor's desk. Governor Snyder has not made a decision on the bill.

Finally, Mr. Mills reported that HB 6123 that was recently introduced would put in statute the current water advisory council.

### **New York**

Mr. Zelazny reported that in 2012 the State passed comprehensive water supply management program legislation that included implementing authorizations for the Great Lakes-St. Lawrence River Basin Water Resources Compact. A key element of the law

included the five-year implementation of an “Initial Permits” Program to convert non-potable water uses previously registered to regulatory permits. That effort has been completed. Public and private water withdrawal systems within New York’s Great Lakes-St. Lawrence Basin having a pumping capacity greater than 100,000 gpd (which is even less than the minimum threshold for reporting under the Agreement & Compact) are now under a permit requiring water conservation plans and strict water use reporting requirements. (Agricultural withdrawals continue to register all water use and do not receive a permit.) Enforcement is underway for a small number of systems that failed to apply for a permit, including a dozen in the Great Lakes-St. Lawrence River Basin.

He added that, prior to 2012, public or potable water supply systems in New York may have been issued multiple permits for new sources, permits for replacement of old sources, and permits for the creation or extension of water districts. Under authority provided by the 2012 amendments to New York’s Water Supply Law, New York is initiating a process to consolidate permits. The consolidated permit will encompass the provisions, terms and conditions of the existing permits and make them consistent with each other. Permit consolidation will make the permitting management process more efficient in the future. In the Great Lakes-St. Lawrence River Basin, this will affect numerous public water supplies and likely necessitate an update or revision to New York’s baseline.

Mr. Zelazny reported that New York has established a new database to track decommissioned/abandoned water wells to provide a more accurate picture of actual groundwater use in the Great Lakes-St. Lawrence Basin and around the State. Information in the State’s Annual Water Withdrawal Database is being cross-referenced with the Water Withdrawal Permits Database to identify systems that should have but do not have permits. Follow-up/enforcement will be pursued as appropriate.

### **Ohio**

Mr. Zehringer reported that since the beginning of 2013, there have been eight new water uses registered in the Lake Erie Basin—1 for irrigations, and 7 for pipelines.

In addition, there has been a high rate of compliance of reporting for water use. As of June 1, 96% of 591 active water withdrawal facilities have reported their water use for 2017, and are on track to complete their reporting to the regional water use database by August 1.

### **Pennsylvania**

Mr. Bruno reported that the Commonwealth is embarking on an update of Pennsylvania State Water Plan, including specific actions the Great Lakes Basin. The Commonwealth is assembling professionals from all water use sectors to participate in planning committees that will examine water use and demand in the Basin. As part of their work, they are looking at future demands from various entities and Critical Water Planning Areas.

There is also a renewed focus on asset management for water utilities coinciding with a March 2018 Pennsylvania Lake Erie Environmental Forum meeting that examined the state of water infrastructure on the Great Lakes and how municipalities in Pennsylvania are addressing legacy problems through new intergovernmental arrangements. The goal is to take advantage of research across the Basin and U.S. to launch discussions with Pennsylvania Lake Erie based water utilities with the goal of reducing non-revenue water loss.

In addition, the annual Children's Water Festival was held in May 2018 with a focus on water conservation and efficiency. The Commonwealth partnered with Penn State Behrend College to provide over 1,000 grade schoolers the opportunity learn about the Great Lakes and water conservation and efficiency, taking the message home about the importance of both.

### **Wisconsin**

Mr. Freihoefer first reported on the diversion to the Village of Mount Pleasant. He reported that Wisconsin approved a diversion to the Straddling Community of the Village of Mount Pleasant on April 25, 2018. The approval allows the City of Racine to divert up to 7 MGD of water to the portion of Mount Pleasant in the Mississippi River Basin. The DNR approval was challenged on May 25, 2018 by several environmental non-governmental organizations disputing DNR's interpretation of "public water supply purposes." DNR has granted the petition for hearing.

He also reported that the Wisconsin DNR also just learned that the Foxconn facility, the planned major water user in the diversion area, will build a Zero Liquid Discharge (ZLD) system. The ZLD system recycles all manufacturing water and the industrial wastewater return to the Lake Michigan Basin will be eliminated. Instead industrial waste will be disposed of at an appropriate landfill location. He stated that Foxconn reports its anticipated daily water use is reduced from 5.8 MGD to approximately 2.5 MGD for cooling and domestic purposes. He characterized the announcement of the ZLD as a positive development and that the Wisconsin DNR looks forward to reviewing it in detail. He also relayed that the information on the Mount Pleasant diversion is available on the DNR website at the [City of Racine diversion page](#).

With regard to the City of Waukesha, Mr. Freihoefer reported that the City continues to work on applications for various permits, and that the switch to Lake Michigan water is still expected to occur in 2023. The City has been working on pipeline design, pipeline testing procedures for water quality and updated environmental information related to the final pipeline corridor. He also reported that there are no public comment periods open at this point, but information on permits and related correspondence is at the DNR website, [City of Waukesha diversion page](#).

Mr. Freihoefer next reported that the Wisconsin DNR annually produces a Water Use report. This annual report discusses overall trends in water use by basin, surface water and groundwater. This past year's report includes a more detailed look at surface water withdrawals from Lake Michigan combining water use information collected by the

Wisconsin DNR with water use information from the Wisconsin Public Service Commission. He noted that that this report is available at the DNR website, [Wisconsin water withdrawals page](#).

Finally, Mr. Freihoefer reported that the Wisconsin DNR is one year into a four-year study evaluating impacts of groundwater withdrawals on three specific lakes in the Central Sands region of Wisconsin. The study includes groundwater data collection for groundwater flow modeling to evaluate cumulative impacts and a determination of the potential for significant impacts to the lake's average seasonal levels as a result of groundwater withdrawals. He noted that additional information is available at the DNR website, [Central Sands Lakes Study](#).

**Administrative reports.**

Ms. Ekman invited Peter Johnson on behalf of the Regional Body's Secretariat, to give an administrative report.

In his administrative report, Mr. Johnson noted that in September of 2017, the Regional Body and Compact Council created and charged a Procedures Update Team with drafting proposed revisions to the Compact Council Interim Guidance and the Regional Body Interim Procedures, both of which were originally adopted by the respective bodies in June of 2010. In addition, the Procedures Update Team has been updating the Sequence of Events for reviewing exception proposals. During the fall of last year and through the beginning of this year, he reported that the Procedures Update Team worked hard to develop draft updates. An initial draft was completed in late February of 2018 and shared with Tribes, First Nations and the Regional Body and Compact Council's Advisory Committee. In mid-March, a meeting was held between the Procedures Update Team and Tribes, First Nations, and the Advisory Committee to provide an overview of the changes that had been made and to solicit feedback on the drafts. Following the meeting, a number of changes were made to the drafts in response to the feedback received. On May 22, the Procedures Update Team released revised drafts and asked for Feedback on the drafts from Tribes, First Nations and the general public, through June 21. He also reported that following today's meetings of the Regional Body and Compact Council, the Procedures Update Team will be taking additional feedback from those who wish to provide it. The Procedures Update Team will then be taking the feedback received under additional consideration as additional revisions are made. He stated that another discussion will be organized for mid to late August with Tribes, First Nations and our Advisory Committee, potentially followed by notice of rulemaking by the Compact Council. He also reported that finally, there will be a meeting of the Regional Body and Compact Council scheduled for December 2018, wherein the two body's will consider formally adopting changes to the Procedures and Guidance, and may be adopting rules as well.

Mr. Johnson also noted that the IAGLR conference is ongoing again this week, and the Regional Body and Compact Council are co-hosting with Ontario another session as part of our overall ongoing science strategy.

Ms. Ekman thanked Mr. Johnson and invited Mr. Todd Carlson, representing the City of Duluth (Minnesota), to make remarks.

Mr. Carlson reported that Duluth has been dealing with significant drainage issues resulting from heavy rain over the weekend. When talking with residents about water, he said he always take opportunity to talk about systems like potable water, sewer and stormwater to help people understand how water moves, and how to ensure that everyone is using and discharging clean water. Duluth has low-gradient streams above the bluff line so all water goes to Lake Superior or to the St Louis River, which is an Area of Concern.

Duluth works with Superior, Wisconsin, and Wisconsin Sea Grant on water protection. The city's elevation change of 883 feet creates challenges for moving water. Most local rivers are active trout streams, and the storm sewer system runs 430 miles of pipes in the area without much treatment before storm water goes to the rivers.

He mentioned a stormwater infrastructure replacement project with strong community engagement. Because the community is so active with water they often call the City if they see or smell something unusual. The project will include Best Management Practices to capture sediment and floating objects, and make sure that discharged water is as clean as possible.

The City has about 140 main breaks per year. A quick freeze in winter can increase this number. The community is a great asset. Nearly every house has been inspected, which is a great opportunity to meet people and talk about water. He often goes to festivals to talk with people about the water cycle and the fact that, "what we take out of lake ends up in the lake after use and treatment."

Mr. Injerd asked about the City's pipe replacement project. Mr. Carlson replied that they are moving to almost all plastic pipes because the flexibility helps with soil issues.

Mr. Zelazny asked how home inspections were conducted. Mr. Carlson replied that the inspections were done from the main line.

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

Noting that the Regional Body meeting adjourned immediately prior to the Compact Council meeting, a motion was made by Mr. Bruno to incorporate minutes of the Regional Body reports into the Compact Council minutes. Mr. Freihoefer seconded the motion. The motion was approved. 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:

**Jennifer Welch, Milwaukee Riverkeepers**

Ms. Welch mentioned that her organization is a member of the Compact Implementation Coalition, and she commended the Regional Body for doing the procedures updates and

for considering requests as part of this process. She asked for more inclusion of regional groups and the public before final adoption of changes. Regarding the Foxconn proposal, she stated that the Wisconsin Department of Natural Resources approved the application and found that regional review is not required. Ms. Welch said this is the first case since the Compact in which diverted water would be used for industrial and commercial use, whereas the Compact allows only for public water supply.

The following additional Comments were made:

**Darrell Gerber—Minnesota Center for Environmental Advocacy**

Mr. Gerber indicated that he would be submitting comments to the Procedures Update Committee. He appreciated the effort and hard work done. He wanted to encourage public meetings to be held in each jurisdiction when a diversion proposal is being reviewed. In addition, he indicated that he would like to see a pre-application review process as a means to identify and address concerns before the official timeline begins. He also asked that the Regional Body request regional review of the Mt. Pleasant, WI diversion to consider the precedent setting nature of the diversion.

**John Hafflauch, Unceded Territory of Manitoulin Island**

Just wanted to thank you the Compact Council and Regional Body members for meeting yesterday with Tribes and First Nations. Tribes and First Nations are the original caretakers of the water, which has a spirit that must not be disturbed. Accordingly, future decisions on diversions can have important impacts. He also stated that treaties never surrendered First Nations rights to waters.

**Todd Brennan, Alliance for the Great Lakes**

Mr. Brennan thanked the Procedures Update Team for its efforts on procedures updates, and appreciated the inclusion of optional public meetings in the latest drafts. He also stated that there should be further clarity on the appeals process, and also wanted more robust pre-application process. Further, he stated that he wanted the entirety of the guidance to be put into rules. He also stated that all with “should” should be changed to “shall.” He also stated that measures should be included to ensure compliance and enforcement. In addition, all costs for hearing appeals should be borne by the Regional Body and Compact Council. Furthermore, all transcripts for jurisdictional meetings should be incorporated into the Record of Decision. For precedent setting proposals, he wanted clarity on how regional review would be initiated. He further stated that Tribes and First Nations should have a particular role. He also wanted clarity on what information the Originating Party must submit to the Regional Body and Compact Council for the record in connection with their meetings. Finally, at public hearings, he stated that there should not be special priority for elected officials, but rather speakers should be taken on a first come first serve basis.

**New Business**

*Consideration of Resolution #39—Adoption of Draft Fiscal Year 2020 Budget (July 1, 2019-June 30, 2020).*

Ms. Ekman stated that the sole item of business to be considered is Approval of the Fiscal Year 2020 Budget. The proposed budget and the resolution granting approval of the

Draft—For Discussion Purposes Only  
August 6, 2018

budget were previously distributed to the members and were posted to the Regional Body website on May 22. She invited a motion to grant approval of the resolution and a second.

Mr. Freihoefer moved to approve the motion and Mr. Smith seconded. Ms. Ekman asked if there was any discussion. Ms. Ekman stated that because there was no representative of Governor Cuomo from New York present, the resolution will not be formally adopted. However, to allow for planning, she asked for preliminary approval of this resolution, with the intent that it be confirmed at the December meeting of the Compact Council.

Ms. Ekman then called a roll call vote on the budget resolution:

Illinois—Yes

Indiana—Yes

Michigan—Yes

Minnesota—Yes

Ohio—Yes

Pennsylvania—Yes

Wisconsin—Yes

**Other Business**

No other business was brought before the Compact Council.

**Adjournment**

Ms. Eckman invited a motion to adjourn and a second. Mr. Bruno moved and Mr. Trigger seconded the motion. The motion passed without objection and the meeting was adjourned.

The full text of the materials discussed at the meeting is available online at [www.compactcouncil.org](http://www.compactcouncil.org).