



## **Frequently Asked Questions**

### **Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement Great Lakes—St. Lawrence River Basin Water Resources Compact**

#### **What is the Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement and the Great Lakes—St. Lawrence River Basin Water Resources Compact?**

On December 13, 2005, the Great Lakes Governors and Premiers signed historic agreements to protect the Great Lakes—St. Lawrence River Basin for future generations. The agreements include the following:

1. The Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement (the Agreement), a good-faith agreement among the Great Lakes States, Ontario and Québec; that will be implemented in Ontario and Québec through Provincial laws, and in the States, through
2. The Great Lakes—St. Lawrence River Basin Water Resources Compact (the Compact), an agreement among the Great Lakes States that will be passed into law through an interstate compact.

#### **How were these agreements developed?**

On June 18, 2001, the Great Lakes Governors and the Premiers of Ontario and Québec signed the Great Lakes Charter Annex. This historically significant measure outlined unprecedented protections for the Great Lakes—St. Lawrence River Basin to help improve the health of the Basin ecosystem. It provided a framework to update the management of Basin waters. The Governors and Premiers then asked a Working Group made up of State and Provincial staff, to develop agreements to implement the Annex into law.

#### **Who else helped shape the final agreements?**

The Working Group consulted with an Advisory Committee including representatives from industry, agriculture, shipping, municipal governments, environmental non-governmental organizations and others. They also worked with representatives from the Canadian and U.S. federal governments and scientific experts and consulted with Tribes and First Nations.

Extensive public input also had a significant impact on the final agreements. Over 13,000 public comments were received during the two official public comment periods held regarding the draft agreements. Over 60 public meetings were held throughout the region to receive public input.

#### **How do you define the Great Lakes—St. Lawrence River Basin?**

The Great Lakes—St. Lawrence River Basin means the watershed of the Great Lakes and the St. Lawrence River upstream from Trois Rivières, Québec. This Basin includes the waters within the geographic areas surrounding each body of water where water drains toward the Lakes and the River, including groundwater.

**How will diversions of water out of the Basin be addressed under these agreements?**

The agreements ban new or increased diversions with limited and strictly regulated exceptions.

**Will there be some flexibility for communities located on or near the Great Lakes—St. Lawrence River Basin?**

Under strictly defined circumstances, it is possible that communities located on or near the Great Lakes—St. Lawrence River Basin divide could obtain an exception from the ban on diversions. Communities that straddle the Basin and communities in straddling counties would only be eligible if the water is used for public water supply purposes. Depending on the location of the water use, an escalating series of other strict eligibility requirements would also have to be met, including requiring water remaining after use to be returned to the Basin, requiring the proposal to undergo regional review before it may be approved, and in some instances unanimous approval must be given before an exception can be granted. When reviewing a straddling county proposal, substantive consideration will be given to whether or not there is scientific evidence that the community's existing groundwater supply is hydrologically interconnected to the waters of the Basin.

There is recognition of a practical issue related to the return of water to the Basin. Of course, public water supply and wastewater systems may not be able to track every molecule of water in some particular circumstances. Therefore, water that is returned may be co-mingled under such circumstances. If water is co-mingled, the discharge must be treated to prevent aquatic invasive species and meet water quality discharge standards. In addition, an effort must be made to maximize the portion of water being returned as Basin water, and minimize outside water.

**How will uses of water in the Basin be managed?**

The States, Ontario and Québec will manage in-Basin withdrawals using a natural resource based standard while retaining flexibility regarding its application. The standard includes requirements that, for example, the use must not result in significant harm to the Basin's waters or related natural resources.

Each State and Province will develop a program to determine which uses must meet this standard while ensuring that, overall, uses are sustainable. After ten years of the agreements taking effect, if a State or Province has not determined its program's scope and adopted a threshold for regulation, then all new or increased withdrawals over 100,000 gallons per day would be subject to management and regulation.

State and Provincial water management programs will be reviewed every five years by the Regional Body and the Compact Council. These entities will include the Governors, Premiers or their designees.

There will be an opportunity for each State and Province to provide input on new or increased uses that result in a consumptive loss of water through evaporation or incorporation into a product of more than 5 million gallons per day (19 million litres per day). Importantly, the final decision on all consumptive uses within the Basin would be made by the host State or Province.

Additionally, the collection of technical data will be strengthened, and the States and Provinces will share the information, which will improve decision-making by the governments.

**Will existing withdrawals, diversions and consumptive uses have to meet the standards?**

The standards are intended for new or increased water withdrawals for exceptions to the ban on diversions and for new or increased consumptive uses from the Great Lakes—St. Lawrence River Basin. Water conservation and efficiency programs will be developed by the States and Provinces in order to reduce waste by all users.

**How will consumptive use volumes be calculated?**

They will be calculated using commonly accepted methods (for example, metering or other water engineering and irrigation methods proposed by the applicant) and based on a 90-day average to ensure an accurate volume can be measured. The States and Provinces will individually and collectively work with stakeholders to develop methods for accurately calculating consumptive uses.

**Will these new agreements and the new standards cut off or restrict economic growth?**

Absolutely not. All of the Governors and Premiers want to see continued economic growth in their States and Provinces and understand that the sustainable use of Basin waters will play a critical role in the preservation of existing businesses and the creation of new jobs. By preserving, restoring, protecting and improving our waters, we will ensure that there is enough water in the future for business use, residential use and economic growth, and preservation of a healthy environment that encourages people to locate in our region. Failure to manage Basin waters responsibly would put future economic growth at risk.

**How long will the regional review process take and will it restrict access for uses in the Great Lakes—St. Lawrence River Basin?**

The regional review process will be swift and will not interfere with existing processes. The overwhelming majority of proposed uses will be reviewed only by the individual State or Province in which the application is made. To the extent possible, the approval process will be incorporated into existing jurisdictional permit-approval timeframes.

**Will the new water management system encourage better water conservation and efficient use of water?**

Absolutely. The new water management system includes provisions requiring improved water conservation and efficient use of Basin water, including input from the public, region-wide goals and objectives for conservation and efficient use. Additionally, the States and Provinces have committed to develop water conservation and efficiency programs within two years that will be consistent with regional goals and objectives. These programs may be voluntary or mandatory.

**What kind of conservation and efficiency measures will be required for approved water uses?**

All proposals for new or increased withdrawals of Great Lakes—St. Lawrence River Basin water must incorporate environmentally sound and economically feasible water conservation and efficiency measures. One of the goals is to promote efficient water use and minimize waste.

**How would bottled water be treated under these agreements? And, what about beer or other products?**

Water in a container larger than 20 liters would be considered to be a bulk transfer and therefore prohibited for transfer outside of the Basin. 20 liters is larger than the largest container generally sold to consumers (the 5 gallon water cooler jug). This approach to managing water in containers reflects the one already in place in Ontario and Québec. The bottled water industry has continued to operate there while the Provinces have ensured that overall use is sustainable.

Each State, Ontario and Québec may develop its own program to manage and regulate bottled water in containers smaller than 20 liters (5.7 US gallons). Beer or other products would be treated in the same manner as other water uses. These agreements reflect a compromise while giving each State, Ontario and Québec flexibility in developing programs that protect the Basin and take into account the diversity of local conditions.

**How do these agreements relate to the Great Lakes Regional Collaboration?**

The Great Lakes Regional Collaboration is a separate process. The Governors have developed nine priorities to protect and restore the Great Lakes; and implementing Annex 2001 relates to the first of these priorities. In the United States, the other eight priorities are being addressed through the Great Lakes Regional Collaboration. For more information on the Great Lakes Regional Collaboration, visit [www.glrc.us](http://www.glrc.us).

**Will these new agreements affect the International Boundary Waters Treaty or the role of the International Joint Commission?**

No. Nothing in the agreements is intended to affect the application of the Boundary Waters Treaty of 1909, whose requirements continue to apply with respect to boundary waters between Canada and the United States in addition to the requirements of the agreements.

**How will the agreements affect Tribes and First Nations?**

The agreements reflect how the Great Lakes States, Ontario and Québec would exercise their own existing rights and obligations, by managing the activities of citizens under their jurisdiction. Nothing in the agreements is intended change any of the rights that any of the Tribes or First Nations may currently have.

The Great Lakes States, Ontario and Québec have consulted with representatives from the region's Tribes and First Nations. Of course, our shared objective is to protect Basin waters. Our dialogue is continuing.

**How will the agreement implementation process work?**

The Great Lakes States and Provinces have entered into a good-faith agreement incorporating their commitments to one another. They will now seek to implement into law what they have promised in the agreement.

The Provinces intend to seek to implement the agreement through modifications to their applicable legislative/regulatory measures. The States will implement the agreement by passing an interstate compact into law. In the United States, Congress will be asked to consent to the compact.

**When will the implementing agreements go into effect?**

Portions of the agreements will be phased in over different time periods. Some provisions have already gone into effect. The Governors and Premiers are working aggressively to put the other provisions of these agreements into action.

**How many diversions are there currently?**

There are currently five inter-basin diversions and six intrabasin diversions.

**How would this project affect the Illinois diversion?**

The Illinois diversion will continue to be governed by the terms of the United States Supreme Court decree in Wisconsin et al. v. Illinois et al. If an application is made by any party to the Supreme Court of the United States to modify said decree, the Parties to this Compact who are also parties to the decree shall seek formal input from the Canadian Provinces of Ontario and Québec with respect to the proposed modification.

**There are a lot of numbers in the agreements. Can you give an example of how 5 million gallons (19 million litres) might be used? How might 100,000 gallons per day be used?**

Since the average person uses about 100 gallons of water per day at home, 5 million gallons of water would approximately equal the daily water use of 50,000 people.

If the average washing machine holds 50 gallons of water, 100,000 gallons could fill approximately 2,000 washing machines.

**Can legislatures make changes to the language in the Compact?**

Because interstate compacts are essentially contracts between States, they must satisfy the customary requirements for valid contracts, including a “meeting of the minds” between the parties. The proof of such an understanding lies in the identity of language adopted by the participating States in a given compact. Therefore, no State may unilaterally alter the terms of a proposed compact without jeopardizing the enforceability of the agreement. It is well understood however, that minor non-substantive deviations from a proposed model (e.g., numbering or formatting changes to comply with an individual State’s drafting conventions) are acceptable.

**Will the States be losing their sovereign authority by enacting the Compact?**

When measured against the complete loss of State authority that can result from federal preemption, most States prefer the legislative and regulatory control that they jointly retain under an interstate compact. Through such agreements, the States retain and can protect a measure of “collective State sovereignty” that would be lost to them under federal regulation. With interstate compacts, States effectively get the best of both worlds – they gain an effective and enforceable measure of uniformity and interstate cooperation without relinquishing regulatory control to the federal government. Similarly, while an individual State may give up the ability to act unilaterally on matters in which the compact parties have shared interests at stake, it may gain the ability to weigh in on decisions affecting its own interests in other party States.