

**Council of Great Lakes Governors**  
**Water Management Working Group Meeting**  
**Meeting Summary**  
Oakbrook Hills Conference Center  
3500 Midwest Road  
Oakbrook, Illinois  
March 8-10, 2005

Sam Speck, Chair of the Water Management Working Group, began the meeting by welcoming participants. He then reviewed the expected outcomes for the meeting.

**Diversions**

The Working Group discussed how diversions should be addressed in the draft Annex 2001 Implementing Agreements. It was noted that this issue was the one most frequently cited in public comments. The Working Group recognized the concern raised by the public that the Annex Implementing Agreements should not inadvertently enable long-distance diversions that could threaten the ecological integrity of the Great Lakes Basin.

One option to address public concerns could be a prohibition of diversions with some limited exceptions. In order to determine the feasibility of this type of an approach, the Working Group next discussed issues that would need to be addressed under such a regime including Near-Basin Communities, Straddling Communities, Intra-Basin Transfers and groundwater. Discussions were also held on what types of votes would be required before a proposal could qualify for an exception.

***Near-Basin Communities***

Next, the Working Group discussed the needs of near-Basin communities and whether, if a prohibition of diversions is adopted, these communities should be allowed to submit proposals as an exception to the ban. It was noted that some near-Basin communities have severely degraded groundwater resources that pose a potential health threat.

The suggestion was made that any such exception for near-Basin communities should only be available for public water supply purposes. Several participants also suggested that it was important that any return flow not include replacement water from watersheds outside the Great Lakes Basin. The Working Group next discussed what type of limitations could be developed in terms of defining “near-Basin communities” so that this exception would not be abused. Participants discussed limitations based on volume, distance and political jurisdiction such as counties. Under an approach using political jurisdiction such as counties, for example, near-Basin communities would only be considered for eligibility as an exception if they are located within a county that is at least partially within the Great Lakes Basin. It was recognized that further discussion is required if this type of an approach is to be pursued.

***Communities that Straddle the Great Lakes Basin Divide***

Next, the Working Group discussed how the agreements should address communities that straddle the Great Lakes Basin divide. It was suggested that communities should be

considered to be completely within the Basin for the purposes of the agreements if their existing or future corporate limits are partially within the Great Lakes Basin. Various issues related to potential future annexation were discussed. The Working Group discussed recognizing the communities' existing corporate limits at the time the agreements come into effect as the permanent demarcation point for defining straddling communities.

### ***Intra-Basin Transfers***

The Working Group next discussed how to address transfers of water from one Great Lakes Basin to another. Under the Great Lakes Charter definitions of diversions, transfers from one Great Lake watershed to another Great Lake watershed would be considered a diversion. Various options were discussed, which included the option of considering intra-Basin transfers to be diversions but with some flexibility for groundwater withdrawals, interconnecting channels, the treatment of Lakes Huron and Michigan as one hydrologic unit and communities straddling watershed boundaries.

The Working Group next discussed the option of considering intra-Basin transfers as a type of diversion subject to different rules and requirements than diversions out of the Great Lakes Basin. Participants discussed creating a definition for "Intra-Basin Diversions" which could mean a transfer of water from one of the Great Lakes into that of a lower Great Lake watershed. Another option would be to consider transfers from one Great Lake to another as diversions but treat intra-Basin transfers of groundwater and tributary surface water as in-Basin consumptive uses. Several concerns were expressed with this definition of Intra-Basin Diversion, including the suggestion that it should be expanded. There was also some hesitation with changing the definition of diversion from the Great Lakes Charter definition.

The Working Group then discussed the option of prohibiting diversions of Great Lakes Water from one Great Lake to another Great Lake Watershed. All other intra-Basin diversions would be treated as an in-Basin use and subject to Prior Notice and Consultation. In these cases, the State or Province in which the proposal originates would be responsible for making the determination that the transfer is consistent with the Decision Making Standard. Lastly, the Working Group discussed requiring the States and Provinces to provide annual reports to the Regional Body as part of the evaluation of their program regarding intra-Basin transfers of water.

Several concerns were expressed with these various approaches. Further discussion is required.

### **Groundwater**

It continued to be suggested that the groundwater and surface water divides should be considered to be coterminous for the purposes of the agreements. Under this approach, the Regional Body would continue to review groundwater as science develops. Future revisions to groundwater requirements would require a unanimous vote of the Regional Body members.

### **Historical Diversions—The Illinois Diversion**

Next, the Working Group discussed draft language relating to the Illinois Diversion. Several members of the Working Group argued that because Illinois is governed by the terms of the existing Supreme Court decree, and because the Supreme Court has continuing jurisdiction over the Illinois Diversion, Illinois should not be able to request additional water pursuant to the draft Annex Implementing Agreements. Regardless, the Working Group discussed that Ontario and Québec should expressly be given the opportunity to provide comments on any future proposed modifications to the decree. Draft revised language will be developed to reflect these discussions.

### **Resource Improvement**

The Working Group next discussed what changes, if any, should be made to the improvement requirement. It was suggested that a jurisdictional or regional improvement program should be created with an explicit linkage between improvement and conservation. It was noted that this type of an approach would be consistent with the definition of improvement in Annex 2001. Under this programmatic type of an approach, improvement requirements would not initially be placed on individual applicants.

### **Conservation**

Next, the Working Group discussed conservation requirements. The suggestion was made that the agreements should include a timetable requiring the States and Provinces to develop conservation programs that would include requirements for both new and existing water users. Various issues related to this approach were discussed. Potential timetables for implementation were also discussed, including five and ten years.

It was tentatively agreed that the States and Provinces should develop water conservation programs within five years of the effective date of the agreements. These programs would include conservation requirements for all users that withdraw more than 100,000 gallons per day. The States and Provinces could commit to reduce demand for water through improved efficiency by all users.

### **Tribes/First Nations**

Leith Hunter, Co-Chair of the Tribes/First Nations Team, led the Working Group in a discussion of how to continue the Working Group's dialogue with Tribes and First Nations. It was recognized that the January 31-February 1 meeting among the Working Group and representatives from the Tribes and First Nations was very cordial and productive.

The Working Group discussed the anticipated meeting of a new "United Indian Nations of the Great Lakes" tentatively scheduled for April 11-12 in Niagara Falls, Ontario. In advance of this meeting, it was agreed that the Working Group will seek to hold a conference call with representatives of the Tribes and First Nations. Topics for the call include a further discussion of recommendations on the draft agreements and how to structure future collaboration.

### **Consumptive Uses**

The Working Group next discussed options for streamlining decision-making for future new or increased consumptive uses. Specifically, the Working Group discussed a proposal that was submitted by several Advisory Committee representatives.

It was suggested that all in-Basin consumptive uses should be decided upon by the State or Province in which the proposal originates. It was further suggested that there should be an opportunity for regional review of proposals for new or increased consumptive uses of more than 5 million gallons per day (mgd) (19 million litres) in order to inform the State's or Province's decision making.

Another suggestion was that large consumptive uses should only go through regional review if three or more jurisdictions objected after receiving notice of the proposal. The concern was expressed that this type of approach would not be in the spirit of collaboration. Additionally, this approach would be less predictable for water users and could also lengthen the period of review.

Another option could be for the State or Province in which a proposal originates to submit notice of the proposal to other jurisdictions for a set period of days for their comments. Public comments would also be solicited and the jurisdiction in which the proposal originates could provide a summary and response to the comments.

The Working Group next discussed timeframes for regional review. It was suggested that the State or Province in which a proposal originates should have 60 days from the receipt of a proposal to make a technical evaluation. This technical evaluation would then be distributed to the other States and Provinces who would then have an additional 30 days to submit comments. The Regional Body would meet within this timeframe as well.

### **Enforcement**

It was generally agreed that the draft Agreement and Compact need to recognize that there must be opportunities for the States and Provinces, aggrieved persons and, in some instances, the public at large to petition courts to enforce the terms of the agreements. Further discussion on this issue will be required to ensure that the agreements can be enforced and that appropriate language is included to this effect.

### **Bulk Water Removals**

Next, the Working Group discussed provisions related to bulk water removals. The Working Group discussed a framework under which removals of water in containers greater than 5.7 gallons (20 litres) would be considered a diversion. Proposals to withdraw Great Lakes Basin water for human consumption in containers less than 5.7 gallons (20 litres) would be considered to be a consumptive use proposal. The concern was expressed that although this language could be used to prevent the bulk transfer of water, it might treat bottled water manufacturers unfairly when the water is intended as a manufactured product for human consumption. Several alternative options were discussed for addressing this issue.

**Work Plan and Next Steps**

The Working Group concluded the meeting by discussing next steps and the work plan for moving forward. A series of conference calls were scheduled. The Working Group anticipates a second opportunity for formal public comment this spring. The Working Group intends to next meet in the summer of 2005 to review comments received and make final revisions to the drafts for the Governors' and Premiers' signature.

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Attendee List  
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3500 Midwest Road  
Oak Brook, Illinois**

**WATER MANAGEMENT WORKING GROUP**

**Illinois**

Mr. Dan Injerd, Manager, Lake Michigan Management Section  
Department of Natural Resources

Mr. Robert Mool, Assistant Chief Counsel  
Department of Natural Resources

**Indiana**

Mr. James Hebenstreit, Assistant Director, Division of Water  
Department of Natural Resources

**Michigan**

Mr. Jim Bredin, Assistant to the Director  
Office of the Great Lakes

Mr. Ken DeBeaussaert, Director  
Office of the Great Lakes

**Minnesota**

Mr. Jim Japs, Supervisor, Water Permit Programs  
Department of Natural Resources

**New York**

Mr. Mike Elmendorf, Director of Intergovernmental Affairs  
Office of Governor George E. Pataki

Mr. Don Zelazny, Great Lakes Programs Coordinator  
Department of Environmental Conservation

**Ohio**

Ms. Kate Bartter, Chief Policy Advisor  
Office of Governor Taft

Mr. Dick Bartz, Chief, Division of Water  
Department of Natural Resources

Mr. Charles Rowan, Legal Counsel  
Department of Natural Resources

Dr. Samuel Speck, Director  
Department of Natural Resources  
*Great Lakes Water Management Initiative Chairman*

**Ontario**

Mr. Babak Abbaszadeh, Senior Policy Advisor, Office of the Minister  
Ministry of Natural Resources

Mr. Bill Carr, Team Leader, Western Hemisphere  
Office of International Relations and Protocol, Ministry of Intergovernmental Affairs

Mr. David de Launay, Assistant Deputy Minister, Corporate Management Division  
Ministry of Natural Resources

Ms. Leith Hunter, Legal Counsel  
Ministry of Natural Resources—Legal Services Branch

Mr. Rob Messervey, Manager, Water Resources Section, Lands and Waters Branch  
Ministry of Natural Resources

Mr. Kevin Wilson, Assistant Deputy Minister, Natural Resource Management Division  
Ministry of Natural Resources

**Pennsylvania**

Ms. Pam Bishop, Esq., Bureau of Regulatory Counsel  
Department of Environmental Protection

Mr. Bill Gast, Chief, Division of Water Use Planning, Bureau of Watershed Management  
Department of Environmental Protection

Ms. Cathleen Curran Myers, Deputy Secretary for Water Management  
Department of Environmental Protection

**Québec**

Ms. Lucie Bouchard, Direction des politiques du secteur municipal  
Ministry of Environment

Ms. Louise Lapierre, Direction des affaires intergouvernementales  
Ministry of Environment

Mr. Jerome Faivre, Direction des affaires intergouvernementales  
Ministry of Environment

Mr. Julien Frenette, Avocat  
Ministry of Justice

**Wisconsin**

Mr. Todd Ambs, Administrator for Water  
Department of Natural Resources

Mr. Pat Henderson, Deputy Legislative Director  
Office of Governor Doyle

Mr. Andrew Moyer, Legislative Liaison  
Office of Governor Doyle

**Council of Great Lakes Governors**

Mr. Peter Johnson, Senior Program Manager

Ms. Zoe Munro, Program Associate

Mr. David Naftzger, Executive Director

Mr. Peter Wise, Senior Associate Director  
The Delta Institute

Ms. Lisa Wojnarowski, Program Associate