

Council of Great Lakes Governors
Water Management Working Group Meeting
October 11-14, 2005
North Shore Skokie Hotel and Conference Center
9599 Skokie Boulevard
Skokie, Illinois

Tuesday, October 11

Sam Speck, Chair of the Water Management Working Group, began the meeting by welcoming participants. He then reviewed the meeting agenda and expected outcomes. It was noted that this would be the last face-to-face meeting of the Working Group, and that it was imperative that the Working Group leave the meeting with closure on the structure of the finalized Annex implementing agreements.

Next, Sam Speck welcomed Molly Flanagan, Great Lakes Water Resources Advocate of the National Wildlife Federation, and George Kuper, President and Chief Executive Officer of the Council of Great Lakes Industries, to provide an overview of a proposal submitted to the Working Group on behalf of the two organizations. Jon Allan, Director of Environmental Services, Environmental Division, Consumers Energy; and Andy Buchsbaum, Great Lakes Natural Resource Center Director of the National Wildlife Federation, participated in the meeting via conference call.

Molly Flanagan began by thanking the Working Group for their work in developing the revised draft agreements and for including the Advisory Committee, Resource Group and Observers in the process. She then reviewed collective comments from the National Wildlife Federation and the Council of Great Lakes Industries.

Dave Naftzger again thanked the Advisory Committee members for their work on the proposed revisions to the revised draft agreements. The Working Group then met independently to review and discuss the Annex implementing agreements..

Wednesday, October 12

The Working Group began by discussing management and regulation of new or increased in-Basin proposals. At a minimum, it was suggested that each State and Province should manage and regulate any new or increased consumptive use of 5 million gallons per day average or greater. Under this option, the originating Party (the State or Province in which the proposed use would occur) could provide notice and opportunity to comment to the States and Provinces. As reflected in previous discussions it was noted that, under this approach, the individual States and Provinces could, of course, choose to adopt a lower threshold within their jurisdiction. It was further suggested that the Regional Body that would be created by the agreements should periodically assess the water management programs of the States and Provinces. The assessments could produce recommendations for strengthening the programs, including establishing lower thresholds for project review in accordance with the Decision Making Standard.

Return Flow

As discussed at previous meetings, it was noted that multiple water treatment and wastewater systems commingle water from multiple sources from different watersheds. As a practical matter, it is recognized that it is impossible to track each molecule of water by source. Nevertheless, it was noted that, as a general principle, water from the Great Lakes Basin should be maximized and non-Basin water minimized as components of return flow. In cases where water is commingled, it was discussed that the return flow must be treated to meet applicable water quality discharge standards and to prevent the introduction of invasive species.

Tribes/First Nations

It was suggested that language should be added to the agreements that would allow representatives of the Tribes and First Nations to participate in an advisory capacity at the regional level. The concern was expressed that several Tribes and First Nations have commented that they do not wish to be represented collectively, but rather consulted with on an individual basis. Further discussion on this issue is required.

Thursday, October 13

The Working Group began with a discussion of the calendar and next steps moving forward. Dave Naftzger reviewed plans for the Council's Leadership Summit, which will be held December 12-13, 2005 in Milwaukee, Wisconsin.

Conservation

It was suggested that within two years of signing the finalized agreements, the Regional Body should develop Basin-wide objectives and best management practices. The Regional Body could modify the objectives as needed every five years, basing its assessment on an examination of new patterns of water use and any cumulative impacts as well as new resource demands or threats.

Within two years of the prohibition on diversions coming into effect, it was further suggested that each State or Province should develop a voluntary water conservation program within its jurisdiction in accordance with the basin-wide objective developed by the Regional Body. The States or Provinces could then annually assess their programs in meeting these goals and objectives, report to the Regional Body, and make the assessment available to the public.

The Working Group next discussed that, if after ten years of the effective date of the agreement, a State or Province's voluntary water conservation and efficiency program was not progressing toward meeting its water conservation goals, then the State or Province should implement an appropriate mandatory water conservation program designed to meet those goals.

Several concerns were expressed with this approach, including the ability of the States and Provinces to meet the objectives within the proposed deadline. It was further suggested that more emphasis should be placed on promoting the efficiency of use and

reducing water loss. Concerns were expressed with the idea of including language regarding reducing demand without properly stressing efficiency as the overarching goal..

Various timeframes were discussed for when a jurisdiction should have its conservation program up and running, including within one, two or five years of the agreements coming into effect.

Enforcement

The Working Group next discussed potential changes related to enforcement. It was suggested that the Compact Council should be given explicit authority to issue orders for compliance. Concern was expressed with this approach. Further discussion on this issue is required.

Applicability

Next, the Working Group discussed what would be defined as a “new or increased” diversion, consumptive use or withdrawal. It was noted that based on past drafts of the agreements, a baseline would be established by each State or Province. This baseline would be based on either or both of the following lists: a list of existing water withdrawal approvals; or, a list of the capacity of existing systems. As illustrated in past drafts of the Annex implementing agreements, the capacity of existing systems would be presented in terms of withdrawal capacity, treatment capacity, distribution capacity or other capacity-limiting factors. The existing capacity determination could be based upon approval limits or the most restrictive capacity information. It was generally agreed that this approach should continue to be used.

St. Lawrence River Basin

It was tentatively agreed that throughout the document, “St. Lawrence River Basin” should be added wherever the term “Great Lakes Basin” appears to make clear that the scope of the agreements included both the Great Lakes and St. Lawrence River Basins within the jurisdiction of the Great Lakes States, Ontario and Québec.

Change of Ownership

The Working Group discussed whether a change of ownership of an existing facility should necessitate a proposal for a new or increased use that might require regional review. The Group agreed that this is not the intent of the States or Provinces.

Friday, October 14

The Working Group reviewed the revised draft agreements section by section and discussed what, if any, changes needed to be made. This review included a thorough review of the drafting of the agreements.

Information Collection

Next, the Working Group discussed information collection, registration and reporting of withdrawals. It was suggested that each State and Province should, within its jurisdiction, develop and maintain a water resources inventory for the collection, interpretation, storage, retrieval, exchange and dissemination of information concerning

the water resources. To the extent feasible, the inventory should be developed in cooperation with local, federal, Tribal/First Nation and other private agencies and entities as well as the Compact Council.

It was suggested that the Compact Council should assist each State in developing a common base of data regarding the management of the water resources of the Great Lakes Basin. It was further suggested that the Compact Council should establish arrangements for the exchange of that data among the States and with the Provinces.

It was suggested that water withdrawals over 100,000 gallons per day and all diversions of any size should register by a date set by the Council unless previously registered in accordance with an existing program. It was also suggested that aggregated water use information should be made publicly available, consistent with the confidentiality agreements elsewhere mentioned in the Compact.

Cumulative Impacts

It was generally agreed that the responsibility for conducting a cumulative impacts assessment should be upon the States and Provinces and not the individual applicants. The Working Group discussed that additional language could be added to the agreements to provide greater clarity along these lines. It was suggested that, as part of future water use proposals, applicants could include a demonstration regarding how the proposal would relate to other existing withdrawals, diversions and consumptive uses. Under this circumstance, the applicant could use data and analyses on cumulative impacts that would be available from the States and Provinces. The Working Group further discussed what type of information would be needed from project applicants in order to make a determination regarding potential cumulative impacts resulting from the project.

Meeting Wrap-Up

The Working Group completed its review of the agreements and noted the significant progress that had been made in finalizing these documents.

Next Steps

Sam Speck, Chair of the Water Management Working Group, thanked members for their participation and hard work during the meeting. It was noted that the Council of Great Lakes Governors' Leadership Summit is scheduled for December 12 and 13 in Milwaukee, Wisconsin. The Working Group agreed that it would be its goal to finalize the Annex implementing agreements and forward them to the Governors and Premiers as soon as possible for their 30-day review. Pending the outcome of that review, the Governors and Premiers could then consider signing the finalized agreements at the Summit.

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Great Lakes Water Management Working Group Meeting
Attendee List**

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North Shore Skokie Hotel and Conference Center
9599 Skokie Boulevard
Skokie, Illinois

WATER MANAGEMENT WORKING GROUP

Illinois

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

Mr. Bob Mool, Legal Counsel
Department of Natural Resources

Indiana

Ms. Kari Evans, Policy Director—Environment
Office of Governor Daniels

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

Mr. Ron McAhrn, Deputy Director, Regulatory Team
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

Ms. Dana Debel, Environmental Policy Advisor
Office of Governor Granholm

Minnesota

Mr. Kent Lokkesmoe, Director, Division of Water
Department of Natural Resources

New York

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

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

Ms. Paula Thompson, Senior Policy Advisor, Water Resources Section, Lands and
Waters Branch
Ministry of Natural Resources

Ms. Jennifer Tuck, Senior Advisor, Policy and Issues Management, Office of the
Minister
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

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

Québec

Ms. Lucie Bouchard, Direction des politiques du secteur municipal
Ministère du Développement durable, de l'Environnement et des Parcs

Mr. Jerome Faivre, Conseiller, Direction des Affaires intergouvernementales
Ministère du Développement durable, de l'Environnement et des Parcs

Mr. Julien Frenette, Avocat
Ministry of Justice

Ms. Louise Lapierre, Direction des politiques de l'air, Service des affaires
intergouvernementales
Ministère du Développement durable, de l'Environnement et des Parcs

Mr. Yanick Lavallée, Midwest Desk Officer, United States Division
International Relations Department of Québec

Wisconsin

Mr. Patrick Henderson, Legislative Director
Office of Governor Doyle

Mr. Chuck Ledin, Director, Office of the Great Lakes
Department of Natural Resources

Mr. Andrew Moyer, Legislative Liaison
Office of Governor Doyle

Council of Great Lakes Governors

Mr. Peter Johnson, Senior Program Manager

Ms. Zoë Munro, Program Associate

Mr. David Naftzger, Executive Director

Ms. Lisa Wojnarowski, Program Associate