



**GENESEE COUNTY DRAIN COMMISSIONER'S OFFICE**

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Lansing, MI 48909-7973

Re: Great Lakes Basin Sustainable Water Resources Agreement  
Great Lakes Basin Water Resources Compact

Dear Governors and Premiers:

I, Jeffrey Wright, as Drain Commissioner for Genesee County, representing 436,000 people in the great State of Michigan, have prepared the following comments regarding the Great Lakes Basin Sustainable Water Resources Agreement (Agreement) and Great Lakes Basin Water Resources Compact (Compact).

As Drain Commissioner in the State of Michigan, I have the privilege of not only providing oversight for surface water quality for over 600 square miles within the Great Lakes Basin, I also provide for water supply and wastewater treatment to Genesee County and five neighboring counties, again, all located within the Great Lakes Basin.

I applaud the efforts of the Governors and Premiers for the time, effort, and dedication that have been put into the preparation of the proposed Compact and Agreement. The residents of Genesee County strongly believe that the protection of our water resources is vital to the health, welfare and vitality of the region. One of the reasons we choose to live and work in the basin is the beauty and resources of the Great Lakes. This resource belongs to the United States and Canada and, in particular, residents within the basin and, as such, should be protected on our behalf. I have reviewed the documents submitted for public review and would like to offer the following comments.

1. The Great Lakes Charter identifies the water resources of the Great Lakes basin as a precious public natural resource. The draft of the Compact also identifies it as a precious public natural resource. The Agreement, however, identifies the waters as a shared public treasure. While it appears to be a minor issue, this can constitute a significant change in how water is treated within the basin. As a resource, it can be used and protected by the residents of the basin from outside influences. As a treasure, it can be admired, protected, and kept from the residents of the basin as well as from outside the basin.

The Annex and the Compact are correct and the Agreement needs to return to that understanding: "The waters of the basin are a public, natural resource" that can be used by residents of the basin without restriction, as long as it benefits the health, welfare and livelihood of the residents and the region.

Recommend: The Agreement language should be consistent with the Annex and the Compact.

2. The Compact and the Agreement advocate protecting, conserving, restoring, and improving these waters. However, the document does not define “restoring.” At what level, age, or millennium are we supposed to restore the basin? Without a more limited and precise definition, including such parameters as elevation, water chemistry, and biological diversity, I do not believe that inclusion of this goal is appropriate or necessary in the document. Restoration, without further explanation, could be construed to require a return to conditions before human intervention. If not defined, it could also be interpreted to mean restoration to conditions before the enactment of the Clean Water Act of 1972, or before the 1900 industrialization and the wholesale logging of the region, or before the arrival of European settlers. Given the uncertainty of the meaning of this term and its requirements, reasonable limits must be placed on the scope of the goal of “restoring” the waters of the Great Lakes.

In addition, the Agreement states that there is a need to balance economic, social, and environmental concerns, a statement that is inconsistent with the goal of “restoring” but is very consistent with the goal of “improving” the Great Lakes water resources. Improvements to the basin may include some form of restoration of the wetlands, natural woods, water quality, or water flow, but may also include the creation of new wetlands, natural areas, or water flow that never previously existed, but which contribute to the overall improvement of the basin.

Recommend: The word “restoring” should be removed from the text of the Agreement or at least limited to a reasonable scope or level.

3. Return water: The Compact and the Agreement identify the requirement of return of the waters as a stipulation for water withdrawn from the basin after use must meet the most protective standards used by any Great Lakes State or Province. Return of less than quality water to the basin can have as much or more negative impact on the quality of the water of the basin than the withdrawal alone. Return flow into the basin should be subject to uniform standards and requirements, just as withdrawal proposals are subject to uniform standards. For example, the State of Michigan’s Department of Environmental Quality still requires that NPDES include secondary water quality standards for discharges by wastewater treatment facilities. This added requirement, above that which is required by the USEPA Region V, provides additional insurance that the overall quality of the return water is acceptable. All return water to the basin should be subject to an NPDES Permit. This needs to be addressed in the Compact and Agreement.

Recommend: The Compact and Agreement should include language to address the quality of the return water. The return water quality must meet the most stringent requirements that are currently used by the basin residents and that it be subject to monitoring for compliance.

4. Information Collection Requirements: The Compact’s Article 7 and the Agreement’s Article 301 requirements regarding collection of information about withdrawals also need to include total water withdrawals under 100,000 gpd. Private residential wells with small flows have a significant cumulative impact on the volume of withdrawal and return flow calculations in the State of Michigan. In addition, where a public water supply system replaces a private water supply, the public system should not be charged with an increase in its withdrawal

calculations, since the public water supply is replacing an existing use, and therefore such a replacement should not be counted as an increased withdrawal.

Recommend: The Compact and Agreement should address withdrawals less than 100,000 gpd, since these withdrawals may be individually insignificant, but cumulatively they have a significant impact on overall withdrawals in the State of Michigan. Provisions should be added to ensure that where a public water supply replaces a private water supply, the public system should not be charged with increasing its withdrawal volume, since it is replacing an existing withdrawal.

5. The Appendix to the Agreement references the Improvement Plan requirements for diversions, withdrawals and consumptive uses at different thresholds. In each of these categories, there is also a consideration that minor withdrawals, diversions and consumptive uses shall be cumulative, and when the thresholds are met, an Improvement Plan is required. These varying requirements imply that only those applicants that cross certain thresholds must participate in the improvement of the basin. How can one expect the last applicant to be responsible for improvements to the basin on behalf of all previous applicants?

Recommend: The Compact and Agreement need to take a cumulative approach to withdrawals and improvements. Each withdrawal, however small, should be required to contribute to the improvements to the basin.

6. There should be no “grandfathering” of current uses of the water resource. Current users are receiving the benefit of this resource, and will continue to receive those benefits in the future. They should not be free of the requirements placed on future applicants and users. The need to protect the resource must apply to all users.

Recommend: Each “grandfathered” use should be subject to the same conservation, permitting, and improvement requirements as new users.

7. In passing the Water Resources Development Act of 1986 (WRDA), Congress authorized a system of regional control of the Great Lakes, and both the Annex and the Compact provide that “The waters of the basin are a public resource.”

It is critical that the Annex and the Compact continue to treat the Great Lakes Basin as a public resource under regional control, led by the Great Lakes Basin Governors and Premiers. Furthermore, the ability of a Great Lakes Governor to object to significant diversion and consumptive use proposals must be maintained in the Compact.

Recommend: The existing “veto authority” granted to each Great Lakes Governor under the WRDA must be retained in the Compact and endorsed in the Agreement to maintain regional control of the Great Lakes as recognized by the United States Congress.

8. The Boundary Waters Treaty of 1909 prioritized the use of waters from the Great Lakes, and gives highest priority to use for domestic and sanitary purposes. The Compact and the Annex should address this acknowledged highest priority and modify its treatment of withdrawals for public water supply within the Basin. One change that should be made is to the assumption that a certain amount of water withdrawn for public water supply is lost forever. These assumptions about the level of consumptive use associated with public water supply do not

apply across the board. For example, as Drain Commissioner for Genesee County, we use approximately 14.5 million gallons of water for public water supply. During the summer months, we use upwards of 23 million gallons a day. Our main wastewater treatment plant on average discharges over 27 million gallons a day. This constitutes an increased flow to the basin of up to 86% more than our withdrawal rate. While it can be attributed to the addition of private water wells and infiltration, it is still an increase of volume of return water to the Great Lakes Basin.

Recommend: The Agreement and Compact should acknowledge that public water supply uses within the Basin are of higher priority than other uses, in accordance with the Boundary Water Treaty. When evaluating the volume of public water supply withdrawals for the purpose of measuring consumptive use, those withdrawals should not be based on assumptions, since some public water supply systems return more water to the system than they withdraw.

These are my comments on behalf of the County Agency of Genesee County. We believe it is important to clarify how the various uses of the waters of the Great Lake basin should be treated, and we believe that the Compact and Annex should continue to reference and include the language and understandings that previous treaties and Acts of Congress established. Those priorities and definitions have stood the test of time and the Compact and Agreement should complement these documents.

I appreciate having the opportunity to submit comments, and I look forward to continuing to participate in the process. Although the many users of the waters and resources of the Great Lakes may have differing opinions regarding the best approach to protecting the Great Lakes, I believe that the common goal of preserving this precious public resource can assist the citizens, businesses and government entities involved in this process in reaching a constructive and effective consensus.

Sincerely,

Jeff Wright  
Genesee County Drain Commissioner  
County Agency


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## Draft Annex 2001 Implementing Agreements

### Great Lakes Water Management Initiative Review of Draft Annex 2001 Implementing Agreements

The Great Lakes Governors and Premiers have released for public review draft Annex 2001 Implementing Agreements ([Governor Jennifer M. Granholm's press release](#).) The release of these Agreements initiated a 90-day public review period that will conclude October 18, 2004. The draft Agreements are products of the Council of Great Lakes Governors' Working Group and as members of the Working Group we are eliciting comments and input. The draft Agreements are for purposes of public comment and input; they do not have the final endorsement of the Governors and Premiers.

The Michigan Office of the Great Lakes would like to invite you to review and comment on the recently released Draft Annex 2001 Implementing Agreements. This web site includes links to the draft Agreements, summaries of the Agreements, background information and links to other related web sites.

#### Background

On June 18, 2001, the Great Lakes Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin joined with the Premiers of Ontario and Quebec in signing the Great Lakes Charter Annex 2001 in Niagara Falls, New York. The Charter Annex is an amendment to the [Great Lakes Charter](#), both good-faith agreements signed by all the Great Lakes Governors and Premiers. The Charter Annex was developed to update the Great Lakes regional water management system and ensure the Great Lakes are protected, conserved, restored and improved for future generations.

#### Development Process

The Governors and Premiers charged the Council of Great Lakes Governors' Water Management Working Group (Working Group) with developing a draft proposal to implement Annex 2001. The Governors and Premiers directed the Council to facilitate this process. The Working Group consists of at least one technical representative from each jurisdiction and one representative designated by each Governor's and Premier's immediate office. For the past three years, the Working Group has been working to develop the implementing agreement(s) including a uniform, resource-based standard.

To meet the Annex commitment to develop a broad based public participation program, an Advisory Committee was created with over twenty representatives comprising a wide range of environmental, agricultural,





municipal, shipping and industrial concerns. The Advisory Committee has been asked to share their expertise and provide advice throughout the Annex implementation process. In addition to the Advisory Committee, the Working Group has also sought input from a Resource Group and Observers that include representatives from federal agencies, the International Joint Commission, the Great Lakes Commission and other governmental and related organizations. Finally, the individual jurisdictions have been engaging in ongoing consultation with their relevant Tribes and First Nations while this proposal has been developed.

### The Proposal

The draft proposal that is now available for public comment is the result of this process. The draft proposal consists of two elements:

- The Great Lakes Basin Sustainable Water Resources Agreement (the Agreement), a good-faith agreement among the 10 Great Lakes States and Provinces; and,
- The Great Lakes Basin Water Resources Compact (the Compact), an agreement among the 8 Great Lakes States to join together in an interstate compact to enhance joint decision making about the use of Great Lakes water.

The decision making standard to be used in evaluating future new or increased water uses is included in both the Agreement and the Compact.

Also, the Office of the Great Lakes has provided the following additional information regarding the Agreements:

- Fact Sheet: Protecting the Great Lakes Through the Annex Implementing Agreements
- About the Annex Implementing Agreements
- Frequently Asked Questions
- Public Meeting Information

### Request for Public Comment

The Office of the Great Lakes is seeking public review and comment on the attached draft proposal to implement Annex 2001. To assist in this effort we have provided the following link that will direct your comments electronically to our office.

[DEQ-ANNEX-2001@michigan.gov](mailto:DEQ-ANNEX-2001@michigan.gov)

Written comments on the proposals may be sent to:

Office of the Great Lakes  
6th Floor Constitution Hall  
P.O. Box 30028  
Lansing, MI 48909

In addition, comments may be submitted to the Council of Great Lakes Governors via e-mail to [Annex2001@cglg.org](mailto:Annex2001@cglg.org). Comments received by the Council in electronic format will be displayed on a message board on the

Council of Great Lakes Governors' website at <http://www.cglg.org> where they will be available for public review. Written comments submitted to the Council should be sent to:

David Naftzger  
Executive Director  
Council of Great Lakes Governors  
35 E. Wacker Drive, Suite 1850  
Chicago, Illinois 60601

### Public Comment Period

The public comment period on the draft proposal begins on July 19, 2004 and will end October 18, 2004. The Office of the Great Lakes will be holding public meeting in many areas of the states and will have a formal public hearing in Lansing. The dates of these meeting will be posted on this web site as they are determined.

Also, the Council will conduct public meetings in Chicago, Illinois and in Toronto, Ontario. Information regarding these meeting will be posted as it becomes available.

Again, this draft proposal is a product of the Working Group to elicit public comment and input. **No final decisions on the proposal will occur until public comments have been received, reviewed and considered by the Working Group.** Following this process, the Working Group will make recommendations to the Governors and Premiers for their consideration.

### Issues for Public Comment

The Office of the Great Lakes and the Council of Great Lakes Governors Working Group welcomes comments on all aspects of the draft proposal. Specific issues have been identified where comments are particularly sought to assist the Working Group:

The Agreement:

- Would you recommend changes to the Regional Review Process, including any changes that could help ensure timely, cost-effective review of water use proposals that are subject to regional review?
- Would you recommend changes related to public participation?

The Compact:

- Currently, through the Water Resources Development Act (WRDA), any proposal for a diversion must be approved by all of the Great Lakes Governors. What is your recommendation for voting on New or Increased Diversions of 1 million gallons per day or greater and New or Increased Consumptive Uses of 5 million gallons per day or greater average over any 120-day period? Note: The draft proposal would require unanimity among those Governors who register their vote to approve New or Increased Diversions of 1 million gallons per day or greater.

- Would you recommend changes related to public participation?
- What recommendations do you have for enforcing the terms of the Compact?

Decision Making Standard (Agreement and Compact):

- Would you recommend making changes to the threshold levels for regional review? Note: The draft proposal would subject New or Increased Diversions of 1 million gallons per day or greater average over any 120-day period and New or Increased Consumptive Uses of 5 million gallons per day or greater average over any 120 day period to regional review by all ten jurisdictions. Other proposals would be reviewed by the jurisdiction in which the proposal originates.
- Would you recommend making changes to the requirements included in the Decision Making Standard for determining the adequacy of proposed improvements to the Waters and Water-Dependent Natural Resources of the Great Lakes Basin?
- Would you recommend making changes to the averaging period used to determine the volume of a proposed water use? Note: The draft proposal includes a 120-day averaging period.
- Would you recommend making changes to the definition of "Existing Water Users"? Note: In the draft proposal, this definition is used for determining which new or increased water uses would be subject to the Decision Making Standard.

**Additional Related Links**

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