

**GREAT LAKES—ST. LAWRENCE RIVER BASIN**  
**WATER RESOURCES COMPACT**  
**PROJECT BACKGROUND, ORGANIZATION AND ROAD TO**  
**DEVELOPMENT**

**BACKGROUND**

A central and continuing issue of common concern to the Great Lakes region is the health and maintenance of the waters of the Great Lakes. To this end, the Council of Great Lakes Governors (Council) assists the Great Lakes Governors and Premiers in coordinating activities under the Great Lakes Charter of 1985, a voluntary agreement through which the Great Lakes States and Provinces cooperatively manage the waters of the Great Lakes. The Council also coordinates the authority granted to the Governors under the U.S. Water Resources Development Act (WRDA) of 1986. This Act requires the Governors' unanimous approval on any proposed out-of-basin diversion or export of water from the Great Lakes Basin.

In the spring of 1998, the Province of Ontario approved a permit for the Nova Group of Sault Saint Marie, Ontario that would have allowed the Nova Group to remove 160 million gallons per year from Lake Superior and then be sold in Asia. Although the Ontario government subsequently rescinded the permit, the accompanying public uproar in Ontario and concern voiced by the Council's Governors led to the review of the issue of bulk removals by the International Joint Commission (IJC).

In an effort to avoid future threats to the Great Lakes, the Governors in 1998 directed the Great Lakes Protection Fund to fund a study of potential legal problems that the Great Lakes face along with solution options. When the report was delivered to the Governors in the spring of 1999, the Governors formed the Water Management Working Group (Working Group) to address the issues raised in the legal team's report. Later in the year, the Provinces of Ontario and Québec joined the Working Group.

On June 18, 2001, the Great Lakes Governors and Premiers of Ontario and Québec signed the Great Lakes Charter Annex 2001 (Annex 2001) in Niagara Falls, New York. Annex 2001 is an amendment to the Great Lakes Charter of 1985, both good-faith agreements signed by all the Great Lakes Governors and Premiers. In Annex 2001, the Governors and Premiers agreed to prepare basin-wide binding agreement(s), such as an interstate compact and agreements, protocols or other arrangements including a dispute resolution process between the States and Provinces that would protect preserve, restore and improve the Great Lakes for the use and benefit of its citizens. The Governors and Premiers also committed to continue a process that ensures ongoing public input in the preparation and implementation of the binding agreement(s) called for in Annex 2001. Included in this process were periodic progress reports to the public.

On December 13, 2005, the Great Lakes Governors and Premiers signed the Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement, and the

Great Lakes Governors endorsed and called for the legislative enactment of the companion Great Lakes—St. Lawrence River Basin Water Resources Compact. The agreements detail how the States and Provinces will manage and protect the Basin and provide a framework for each State and Province to enact laws for its protection.

The agreements include the following points:

- Economic development will be fostered through the sustainable use and responsible management of Basin waters.
- There will be a ban on new diversions of water from the Basin. Limited exceptions could be allowed, such as for public water supply purposes in communities near the Basin, but exceptions would be strictly regulated.
- The States and Provinces will use a consistent standard to review proposed uses of Basin water.
- Regional goals and objectives for water conservation and efficiency will be developed, and they will be reviewed every five years. Each State and Province will develop and implement a water conservation and efficiency program.
- 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.
- There is a strong commitment to continued public involvement in the implementation of the agreements.

The Governors and Premiers are working aggressively to put these agreements into action. In the United States, each of the eight State legislatures must ratify the interstate Compact. Congress will also be asked for its consent. After this, the Compact will become both State and federal law. In order to put the agreement into law in Ontario and Québec, the Provinces will amend their statutes and regulations as appropriate. No federal legislation is required in Canada.

## **ORGANIZATION AND STRUCTURE**

### **Objective**

On September 4, 2001 Council of Great Lakes Governors Chair Governor Bob Taft of Ohio called for the re-appointment of the Working Group. The objective of the Working Group was to provide recommendations to the Great Lakes Governors and Premiers regarding implementation of Annex 2001.

### **Management Team**

The Great Lakes Water Management Initiative entered the final phase of operation under the leadership of Council Co-Chairs Governor Jim Doyle of Wisconsin and Governor Bob Taft of Ohio. The implementation of Annex 2001 fell under the day-to-day direction of a Water Management Working Management Team (Management Team). The membership of the Management Team included Working Group Chair Sam Speck, Director, Ohio Department of Natural Resources; Dana Debel, Environmental Policy Advisor to Michigan Governor Jennifer Granholm; Rob Messervey, Manager of the Water Resources Section of the Lands and Waters Branch of the Ontario Ministry of Natural Resources; Patrick Henderson, Legislative Director, Office of Wisconsin

Governor Jim Doyle; and, David Naftzger, Executive Director of the Council. To support the efforts of the Management Team and Working Group, legal counsel and policy research experts could be contracted with the Council to provide support to the initiative under the direction of the Management Team.

### **Water Management Working Group**

Under Governor Taft's Co-Chairmanship of the Council, Sam Speck, Director, Ohio Department of Natural Resources, chaired the Working Group. The Chair worked with the Management Team and Council staff to design the process for the project and establish meeting agendas.

The Working Group consisted of the Council staff and at least two members from each State/Province as appointed by their respective Governor/Premier. Each Governor/Premier selected at least one member to represent technical expertise on water management issues and at least one member to represent policy issues and was able to speak on behalf of his/her respective Governor/Premier. Any State/Province could select additional individuals to attend meetings as needed.

The role of the Working Group was to perform the work necessary to implement Annex 2001 as described in the Objective. The Working Group also created Sub-committees to work on specific tasks related to the project. Sub-committees include the Compact Structure Sub-committee (charged with the development of the Great Lakes—St. Lawrence River Basin Water Resources Compact); the Decision Making Standard Sub-committee (charged with the development of the Standard used for reviewing new or increased withdrawals of Great Lakes water); and, the International/Inter-provincial Agreement(s) Sub-committee (charged with the development of the Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement). A Legal Team provided advice and assistance to the Working Group and Sub-committees on legal questions and issue that arose. A Tribes/First Nations Team provided advice and assistance to members of the Working Group as it engaged in ongoing discussions with Tribal and First Nation representatives. Finally, a Communications Team provided the Working Group with assistance in reaching out to the public and coordinating public comments. Members of the Sub-committees and Teams were members of the Working Group or their designees within respective State/Provincial government and did not represent outside entities or organizations. The Working Group Chair appointed leadership of the Sub-committees and Teams in consultation with the Working Group.

The Working Group received advice and comment from an Advisory Committee, Resource Group and Observers as well as from consultants contracted by the Council.

### **Advisory Committee**

The Advisory Committee comprised approximately 25 individuals representing a broad range of stakeholder interests in the Great Lakes region. All members of the Advisory Committee were selected by consultation and agreement of the Working Group and represented a cross-section of stakeholders within the region while taking into account geographic representation.

The role of the Advisory Committee was to advise the Working Group during all phases of the project. Individual Committee members provided briefings on relevant issues in their area of expertise and provide input to the Working Group. In addition to providing input to the Working Group, the Advisory Committee members provided information regarding the Working Group's progress to members of their respective organizations.

The Advisory Committee met with the Working Group periodically, at a minimum of two times a year, during the course of the project.

### **Resource Group and Observers**

The Resource Group and Observers comprised governmental bodies that have technical expertise regarding Great Lakes issues. The members included the Great Lakes Commission, International Joint Commission, the Great Lakes Congressional Task Force, U.S. Geological Survey, U.S. Army Corps of Engineers, Environment Canada, Foreign Affairs Canada and the U.S. State Department.

The role of the Resource Group and Observers was to advise the Working Group. They provided their advice independent of the Advisory Committee. The Resource Group and Observer members were also asked to provide specific work products and gave periodic status reports to the Working Group and the Advisory Committee.

The Resource Group and Observers met periodically with the Working Group, at a minimum of two times a year, during the course of the project.

### **Tribes/First Nations**

The Governors and Premiers and the Tribes and First Nations have a shared goal of protecting the Great Lakes. Dialogue and consultations occurred in an ongoing manner among the Great Lakes States, Ontario, Québec, Tribes and First Nations about how to best protect Great Lakes Basin waters. Discussions were also ongoing about how intergovernmental cooperation could be improved in order to better protect Great Lakes Basin waters. Regardless, nothing in the Great Lakes-St. Lawrence River Basin Water Resources Compact is intended to abrogate or derogate from aboriginal or treaty rights or rights held by any Tribe or First Nation based upon its status as a Tribe or First Nation.

### **Council of Great Lakes Governors**

David Naftzger, Executive Director of the Council, and selected staff served as facilitators for this project under the direction of the Management Team. The facilitators served as a neutral third party to allow the Chairs to take positions representing their State and Provincial interests. In addition to facilitating the Working Group, Sub-committees, the Advisory Committee, Resource Group and Observer meetings, Council staff coordinated meeting logistics, prepared meeting agendas, briefing materials, meeting summaries, and provided speakers and independent technical experts as needed.

## **Decision Making**

All decision making by the Working Group was done by consensus. Consensus is a process through which a group makes a decision that all group members can support although they may not agree with every aspect. The agreement should be the best one for the group as a whole. In the consensus building process, solutions were developed that attempt to meet the interests of all members. To reach consensus, presentation and discussion of diverse viewpoints was needed. To be certain that the group agreed, the meeting facilitators periodically tested for agreement. Frequent testing for agreement helped reduce delays in decision making and clarified disagreements.

## **Public Participation**

To assure public access, understanding, and support for the Governors' and Premiers' water management program, public meetings and consultation was conducted in all States and Provinces.

Along with periodic meetings with the Advisory Committee, project progress was shared with interested and affected parties through a quarterly Council newsletter, periodic updates posted on the Council website, and periodic e-mails to interested parties.

In addition, two public comment periods over 150 days were held to solicit the general public's input on drafts of the Great Lakes—St. Lawrence River Sustainable Water Resources Agreement and the Great Lakes—St. Lawrence River Water Resources Compact. The first public comment period began on July 19, 2004, and the second public comment period began on June 30, 2005. Overall, more than 13,000 public comments were submitted. Substantial revisions were made to both documents in response to the public comments received.