

## **Introduction**

The Great Lakes and St. Lawrence Cities Initiative (GLSLCI) is pleased to submit comments to the Council of Great Lakes Governors (CGLG) on the Great Lakes Basin Sustainable Water Resources Agreement and Compact (the Agreement and Compact). Protection and restoration of this resource is of utmost importance to the mayors of cities all across the Basin because the quality of life for our citizens depends so much on the quality of the Lakes. We applaud the governors and premiers for their extensive efforts to run a very open, transparent, and inclusive process to come up with a water management system that will protect the resource and serve all the citizens.

We submitted comments on the last draft and are pleased to see that they were factored into this draft. We especially appreciate that you have reflected the importance of compliance with municipal laws, as well as federal, state, and provincial laws.

## **The Agreement**

### **Chapter 1** - No comments

**Chapter 2** – This is obviously the heart of the Agreement, as it deals with the key policy decisions that need to be made. With regard to potential diversions, we support the approach of prohibiting them, with very limited exceptions. Especially important are the limitations for public water supply and the requirements for returning the original water to the source watershed in a state of high quality. The exception for a straddling community makes sense, but GLSLCI is concerned about opening the exceptions to an entire county. This could lead to significantly more water diverted from the basin, although the programs of the states and provinces would require that it be returned.

Further, GLSLCI is concerned the exception to allow intrabasin transfers. Similar to the exception for straddling communities, intrabasin transfers make sense in certain circumstances. Our concerns stem largely from the clause which permits medium withdrawals (Section 2-b,ii) with return flow permitted to an alternate basin to the source basin. In particular we are concerned about intrabasin transfers between the Upper Lake (Superior), Middle Lakes (Huron and Michigan) and Lower Lakes (Erie and Ontario). Current and past proposals such as the York Region withdrawal from Georgian Bay highlight the intensity of debate and conflict surrounding diversions. Cumulative impacts of multiple intrabasin transfers and exceptions for straddling communities will be difficult to monitor and reverse if required. We feel that individual and cumulative diversions could result in harmful water level changes to both source and catchments basins resulting in significant economic and ecological impacts.

We think that the threshold for Regional Review of 5 MGD consumptive use is too high, and that 1 MGD consumptive use is a more appropriate number. Depending on where the withdrawal occurs, it could have a significant impact on the source water area. The lower threshold will provide more protection for the resource.

With either the 5 MGD or 1 MGD threshold, however, many cities, especially larger ones, experience significant variations in withdrawals at different times of the year and even on a daily or weekly basis. In order to avoid continuing multiple reviews, the baselines for cities and other users need to be set in a way that recognizes the fluctuations in withdrawals during the course of a year.

The decision making standard in Article 203 is basically sound, and we are strongly supportive of the requirements for water conservation measures. The requirement of compliance with municipal laws in addition to federal and state makes the provision more complete and comprehensive. Although the “resource improvement” provision generated much controversy, this was a unique opportunity to get projects that could benefit the Great Lakes. We believe they should be included. Another concern is consistency in decision making across the basin. Especially where individual jurisdictions are making decisions, there needs to be a mechanism for ensuring consistency. At a minimum, there needs to be an accessible directory of decisions that includes the basis and rationale for the decisions.

The decision to subject the uses and diversions by the State of Illinois to the U.S. Supreme Court consent decree makes sense because of the long history of that matter. However, it is fully appropriate to subject the Illinois users to the water conservation program requirements.

### **Chapter 3 -**

The water management programs of the states and provinces will be the key to the success of this overall effort. It will take a significant resource investment to make this work, and that will be difficult in the current budget climate. The Cities Initiative encourages the states and provinces to make the necessary investments to make the system successful. The cities of the GLSLCI also offer their assistance in the design of the necessary laws and regulations for the programs so that there will be more acceptance of the programs and more effective coverage.

One of the key elements of the system is to establish a good inventory of current withdrawals, as well as the new and increased ones. There should be special emphasis on making sure this information is gathered and maintained properly, as there have been difficulties in doing this in the past.

Another important element in this chapter is water conservation programs. The potential for reducing demand in the future from conservation programs is excellent. The provision makes it clear that the conservation programs apply to the existing users, as well as the new and increased users, which is fully appropriate, as many of the significant gains in conservation can be realized from existing users. Although the provision probably contemplates state and provincial governments working with municipalities, agriculture, industry, and others on the development of these programs, this should be explicit. There is a great deal of experience in conservation programs in municipalities that should be factored in from the very beginning in developing the programs. Also, there will need to be assistance and cooperation in the actual implementation. The states and provinces should take full advantage of the expertise at the municipal level. Public outreach and education is also an important element in all water conservation efforts, and it should be emphasized in this article.. We suggest you add a provision in article 303, section 4, such as “Development and implementation of public outreach concerning conservation at the household level.” This should also be added at the appropriate location in the Compact.

The states and provinces should consider what things might appropriately be done at their level of government to help encourage the use of more water conservation equipment and techniques. We also recommend that some type of conservation goals be established for various water users so that there is a concerted effort to get actual reductions in water use. These all must be done in recognition of the economic realities faced by water users. The cities are fully committed to expanding the use of sound conservation measures across the basin, but will need the full support of the states and provinces and the public.

**Chapter 4** - no comments

**Chapter 5** – The provisions with regard to regional review and the notice, comment, consultation, public participation and other elements are all appropriate. The primary challenge will be timeliness in decision making. The key to success will be to make sure that complete, high quality applications are submitted and that the review process is tracked closely against schedules and milestones.

**Chapter 6** – no comment

**Chapter 7** – Regarding entry into force in article 710, it is hard to follow what comes into force when, but it may be difficult to do this differently. Of particular concern is the timing for water conservation programs. It appears that the requirement for states and provinces to have programs in place is well over 5 years into the future. In addition, there does not appear to be a deadline by which time water users must implement conservation measures. Much valuable water will be lost in the interim, and we suggest a more ambitious implementation schedule both for the state and provincial programs and for the actual implementation by the users.

**Appendix 1** – Some of the information submitted as part of the application process may be sensitive from a security standpoint or because of business confidentiality. State and provincial programs need to have safeguards in place to protect the information.

### **The Compact**

To the extent the Compact tracks the Agreement, we reiterate our comments for the Compact.

**Other Comments** – One of the key elements of success for a program like water management, especially one that is new, is to establish the credibility of the program and make sure that it is taken seriously. Of necessity, there will be a high degree of reliance on voluntary compliance by the regulated community. The way to ensure a high level of voluntary compliance is to hold violators accountable for not meeting the requirements of the system. The Agreement places very little emphasis on enforcement of the program, and there should be more. At a minimum, the parties to the Agreement need to commit that their programs will be enforceable under their laws and that there will be an investment of resources to ensure compliance.

The science of water balance in the Great Lakes is not as advanced as it should be, especially when looking at the total system of groundwater, tributaries, withdrawals, evaporation, and the many other elements. The signing of this Agreement would be a good opportunity to make a commitment to advancing this understanding. We suggest that the parties do that, and spell out in at least some general way, how that would be accomplished.

The averaging times used in the Agreement are generally 90 day periods, which is an improvement over the 120 period used before, but are remain somewhat high. Consideration should be given to a lower level so that sufficient protection can be provided to the source water area. Also, some parts use 30 day and some parts 90 day, and it is not clear why different averaging times are used.