

**JULY 19, 2004**

**Council of Great Lake Governors  
Great Lakes Water Management Initiative  
Request for Public Comment**

**Background and Purpose**

The Great Lakes are a bi-national public treasure and are held in trust by the Great Lakes States and Provinces. For the last nineteen years, the Great Lakes Governors and Premiers have followed a set of principles included in the Great Lakes Charter to guide them in developing, maintaining, and strengthening the regional management regime for the Great Lakes ecosystem.

There has been significant progress in restoring and improving the health of the ecosystem of the Great Lakes Basin. However, the Waters and Water-Dependent Natural Resources of the Basin remain at risk of damage from pollution, environmental disruptions, and unsustainable water resource management practices that may individually and cumulatively alter the hydrology of the Great Lakes ecosystem.

To address these concerns, 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 of 1985, 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.

**Request for Public Comment**

The Council of Great Lakes Governors (the Council) is seeking public review and comment on the attached draft proposal to implement Annex 2001. The draft proposal was developed by staff of the eight States and two Provinces who constitute the Governors' and Premiers' Water Management Working Group. **This draft proposal is a product of the Working Group to elicit public comment and input; it does not have the final endorsement of the Governors and Premiers.** This Request for Public Comment Paper:

- Provides a brief background and purpose for the proposal;
- Describes the process that was used to complete the proposal and the process anticipated for completing a final proposal for consideration by the Governors and Premiers;
- Provides a summary of the proposal;
- Highlights issues where public comment is particularly requested; and,
- Describes the public comment period process and schedule.

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### **Development Process**

The Governors and Premiers charged a 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.

To facilitate dialogue with the range of interested and affected parties, the Water Management Working Group has also provided project progress reports through periodic updates posted on the Council website and e-mail communiqués.

### **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.

The Agreement includes the following chapters:

- Preamble
- General Provisions
- The Standard
- Water Management Programs Within the Jurisdictions
- Great Lakes Water Resources Regional Body
- Regional Review
- Dispute Resolution
- Final Provisions
- Appendix 1 –Decision Making Standard
- Appendix 2 - Procedures Manual

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The Compact includes the following Articles:

- Short Title, Definitions, Purposes and Duration
- Organization
- Powers and Duties
- Dispute Resolution
- General Provisions
- Effectuation
- Authority to Collect Data
- Regional Review of Proposals and the Standard of Review and Decision
- Jurisdictional Programs and the Standard of Review and Decision
- Additional Provisions

The Working Group continues to examine the relationship of these agreements to any future modifications of major historical diversions. The scope of this discussion includes the role of the Regional Body, the Compact Council, the Regional Review process, the Compact Council Review process, Declarations of Finding and the Decision Making Standard.

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 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:

- What is your recommendation for voting on 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? Note: The draft proposal would require unanimity among those who register their vote to approve New or Increased Diversions of 1 million gallons per day or greater average over any 120-day period and a super-majority for New or Increased Consumptive Uses of 5 million gallons per day or greater average over any 120-day period.
- Would you recommend changes related to public participation?
- What recommendations do you have for enforcing the terms of the Compact?

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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.

**Public Comment Period**

The public comment period on the draft proposal begins on July 19, 2004 and will last for 90 days. The Council will conduct public meetings in Chicago, Illinois on September 8 and in Toronto, Ontario on September 20. The States, Ontario and Quebec will hold public meetings during the public comment period as well.

Comments are requested in the form of recommendations. Because of the number of comments expected, we are unable to send individual responses.

Written comments on the proposal should be sent to:

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

Comments may also be submitted via e-mail to:

[Annex2001@cglg.org](mailto:Annex2001@cglg.org)

Comments can also be submitted online via the Council of Great Lakes Governors’ website at <http://www.cglg.org>. Comments submitted in this manner will also be available for public viewing on our website.

# **Council of Great Lakes Governors**

## **Fact Sheet: Protecting the Great Lakes through the Annex Implementing Agreements**

### **What we are doing:**

- The eight Great Lakes Governors and the Premiers of Ontario and Quebec have come together to create unprecedented protections for the Great Lakes Basin.\*
- Through the Council of Great Lakes Governors, the staffs of the Governors and Premiers have worked closely with an Advisory Committee including agricultural, industrial, shipping, municipal, and environmental interests and consulted with Tribes and First Nations to arrive at the best possible protections.

### **Why we are doing it:**

- There are potential threats to the waters of the Great Lakes, and they promise to increase. We are looking ahead and taking protective steps to avoid potential conflicts and shortages and to protect the Great Lakes environment for future generations.
- The Great Lakes resource is critical to our economy, including manufacturing, tourism, agriculture and power supply. We must use the water wisely to help ensure that it remains at healthy levels to maintain a lasting competitive economic advantage in our region.
- These protections ensure that authority over the Great Lakes Basin remains in the region and that the Governors and Premiers are recognized as the primary decision makers and protectors of this valuable resource.

### **Where we go from here:**

- An opportunity for public comment will begin when the draft agreements are released this summer, and will last at least ninety days. There will be multiple public meetings to discuss the documents and receive comments, including regional meetings in Chicago and Toronto. Written comments may also be sent to the Council of Great Lakes Governors or posted publicly on the Council's Web site, [www.cglg.org](http://www.cglg.org).
- Following the public comment period, the staffs of the Governors and Premiers will determine changes based on public feedback.
- The Governors and Premiers will sign the final agreement, which will provide the framework for each State and Province to pass laws that will protect the Great Lakes Basin today and for future generations.

*\* The "Great Lakes Basin" is the watershed of the Great Lakes and the St. Lawrence River upstream from Trois-Rivières Québec. This region includes the geographic areas surrounding each body of water where water drains toward the Lakes and the River.*

## Frequently Asked Questions—Annex 2001 Implementing Agreements



### **What is the Great Lakes Charter Annex?**

The Great Lakes Charter Annex (Annex) is an agreement signed by all eight Great Lakes Governors as well as the Premiers of Ontario and Quebec in 2001 to help protect, conserve, restore and improve the Great Lakes Basin\* for future generations.

### **Why was the Annex created?**

There are many threats to the waters of the Great Lakes Basin and they promise to increase. The Great Lakes Basin waters are critical to the health of our region and its economy. The Governors and Premiers created the forward-looking Annex to take steps that will help avoid conflicts and shortages in the future and protect the resource and related ecosystems.

### **What does the Annex do?**

The Annex was the first part of a two-step process. It updated the way the Great Lakes Basin should be protected. However, it did not outline the specifics of how to protect it. After signing the Annex, the Governors and Premiers identified the second step, creating a plan to put the Annex in motion, which would include a common decision-making standard.

### **What's next?**

Since the signing of the Annex, the Governors' and Premiers' staffs have been developing agreements to create a management process for regulating water diversions and withdrawals from the Great Lakes Basin. These agreements will ensure that authority over the Great Lakes remains with the Governors and Premiers. Once signed, the new agreements will provide the framework for each State and Province to pass laws that will protect the Great Lakes Basin.

### **Who else is involved?**

This process has involved a wide range of interested parties participating on the Advisory Committee. Participants range from the environmental and business communities to the agriculture, municipal water supply and shipping industries. Additionally, the Governors' and Premiers' staffs have consulted the Tribes and First Nations throughout the region.

### **Is this really necessary?**

Absolutely. Threats to the water levels of the Great Lakes will undoubtedly increase in the future and we must act now to put the proper measures in place so we are prepared to deal with them.

### **What does all of this mean for me?**

The new agreements will protect the waters of the Great Lakes Basin now and into the future. They will help ensure the Great Lakes remain at safe and healthy levels for future generations.

### **What happens after the draft agreements are released?**

Beginning this summer, there will be regional, State and Provincial public meetings. These meetings will be an opportunity for everyone to view and comment on the work that has been done thus far. Once the public comments have been taken into account, the Governors and Premiers will revise and sign the final agreements.

*\*The Great Lakes Basin is the region of the Great Lakes and the St. Lawrence River (upstream from Trois-Rivières, Québec) surrounding each body of water, where water drains toward the Lakes and the River.*