Members Brief

An informational brief prepared by the LSC staff for members and staff of the Ohio General Assembly

Author: Racheal Vargo, Research Analyst
Reviewer: Amanda Goodman, Division Chief

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The Great Lakes – St. Lawrence River Basin Water Resources Compact

The Great Lakes – St. Lawrence River Basin Water Resources Compact is an agreement between Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin that aims to protect, conserve, restore, improve, and effectively manage the waters and natural resources of the Great Lakes. The primary purpose of the Compact is to restrict the diversion of water from inside the Great Lakes Basin, with few exceptions. Additionally, the Compact creates a framework for those states to regulate and evaluate new or increased withdrawals and consumptive uses and develop a water conservation program. This brief provides an overview of the Compact and corresponding state regulations, as well the history of the Compact.

Contents

Overview 1
Figure 1: Great Lakes – St. Lawrence River Basin 2
History of the Compact 2
The Compact's provisions and state regulations 3
Diversions 3
New and increased withdrawals and consumptive uses 4
Decision-making standards 5
Water conservation and efficiency program 5
Annual reporting 6
Ohio water conservation – ODNR contact information 7

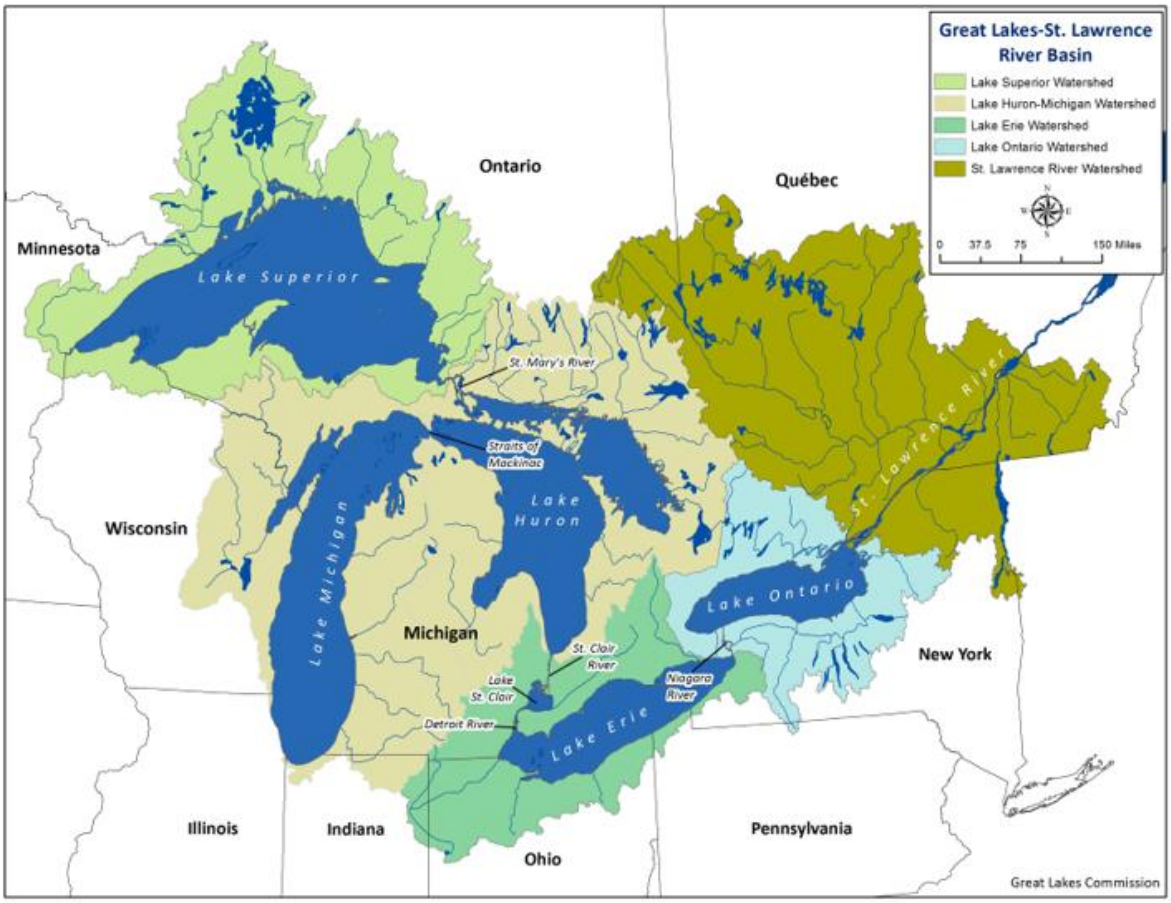
Overview

The Great Lakes – St. Lawrence River Basin Water Resources Compact ("the Compact") is an agreement between the eight Great Lakes States – Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin – to protect, conserve, restore, improve, and effectively manage the waters and natural resources of the Great Lakes. The primary objective of the

Compact is to prohibit, except in very limited circumstances, new and increased diversions of water from inside the Great Lakes Basin to areas outside the Basin.

The Great Lakes are a precious resource. They are one of the largest systems of freshwater lakes in the world. The Great Lakes hold 84% of North America's surface freshwater and 20% of the world's surface freshwater. The Great Lakes – St. Lawrence River Basin contains over 94,000 square miles of surface water and provides drinking water for more than 40 million people.[1]

Figure 1: Great Lakes – St. Lawrence River Basin[2]



History of the Compact

The Compact's origins can be traced to the Great Lakes Charter.[3] Signed in 1985 by the Great Lakes Governors and Premiers of Ontario and Québec, the Charter was a nonbinding agreement to conserve the levels and flows of the Great Lakes and their tributary and connecting waters and to protect and conserve Basin ecosystems. The Charter came as the result of multiple

[1] See Great Lakes Compact Council, About The Great Lakes St. Lawrence River Basin.

[2] Image credit: Great Lakes Compact Council, About The Great Lakes St. Lawrence River Basin.

[3] See The Great Lakes Charter (PDF).

proposals to divert water outside of the Basin, such as a 1981 failed proposal by the Powder River Coal Company to divert water to Wyoming as part of a $2.1 billion coal slurry pipeline.[4]

The Charter focused on five principles, including prior notice and consultation among states for any new or increased diversion or consumptive use of water exceeding 5 million gallons per day over any 30-day period. The Charter also focused on developing a cooperative water resources management program for the Basin, creating a system to exchange water data and information, and establishing a Water Resources Management Committee.[5]

In 1998, the Nova Group, a Canadian company, requested a permit to sell 160 million gallons of water from Lake Superior per year in Asia.[6] In response to this proposal, the Great Lakes Governors and Premiers developed The Great Lakes Charter Annex to supplement the Charter.[7] The Annex outlined directives to develop a new set of binding, Basin-wide agreements. The agreements included new decision-making standards to review proposals to withdraw water as well as proposals to increase existing withdrawals or withdrawal capacity.[8]

In 2005, the agreements outlined in the Annex were approved and signed by the Great Lakes Governors and Premiers. These provisions became The Great Lakes – St. Lawrence River Basin Sustainable Water Resources Agreement. The Agreement was implemented in Ontario and Québec through provincial laws. For the Great Lakes states, the Agreement was implemented through the Great Lakes – St. Lawrence River Basin Water Resources Compact. As a result of Congressional consent as required by the Compact Clause of the U.S. Constitution,[9] the Compact became effective on December 8, 2008, as both federal and state law.[10]

The Compact's provisions and state regulations

As mentioned above, the primary objective of the Compact is to prohibit, except in very limited circumstances, new and increased diversions of water from inside the Great Lakes Basin. The Compact also requires each party to manage and regulate new or increased withdrawals and consumptive uses. Furthermore, it requires that each party develop and implement their own water conservation and efficiency program.

Diversions

The Compact[11] defines diversions as a transfer of water from the Basin into another watershed, or from the watershed of one of the Great Lakes into that of another by any means

[4] See Great Lakes St. Lawrence Governors & Premiers (GSGP), Great Lakes Water Management Chronology Key Events (PDF).

[5] See GSGP, The Great Lakes Charter (PDF).

[6] See Great Lakes Water Management Chronology Key Events (PDF).

[7] See GSGP, The Great Lakes Charter Annex (PDF).

[8] See The Great Lakes Charter Annex (PDF).

[9] U.S. Constitution, Article I, § 10, cl. 7.

[10] H.B. 416 of the 127th General Assembly; See GSGP, History.

[11] R.C. 1522.01.

of transfer. It does not apply to water that is used in the Basin or a Great Lake watershed to manufacture or produce a product that is then transferred out the Basin or watershed.[12]

The Compact generally prohibits all new or increased diversions. However, all of the following are exempt from that prohibition subject to certain conditions:

- Straddling communities: Any incorporated city, or town wholly within any county that lies partly or completely within the Basin, whose corporate boundary is partly within the Basin or partly within two Great Lakes watersheds. Diversions under this exception are limited to waters used for public water supply purposes.
- Intra-Basin Transfer: The transfer of water from one Great Lakes watershed into another Great Lakes watershed.
- Straddling county: Any incorporated city or town that is located outside of the Basin but wholly within a county that lies partly within the Basin and that is not a straddling community. Diversions under this exception are limited to waters used for public water supply purposes.[13]

Ohio law prohibits a person from operating a facility or equipment that results in a new or increased diversion unless that person applies for a permit to do so from Ohio's Department of Natural Resources (ODNR's) Chief of the Division of Water Resources. The Chief must approve the application only if the Chief determines the application qualifies for one of the stated exceptions.[14]

New and increased withdrawals and consumptive uses

The Compact defines withdrawal and consumptive use as follows:

- Withdrawal: The taking of water from surface water or groundwater.
- Consumptive Use: The portion of the water withdrawn or withheld from the Basin that is lost or otherwise not returned to the Basin due to evaporation, incorporation into products, or other processes.[15]

The Compact requires each party to create a program for the management and regulation of new or increased withdrawals and consumptive uses.[16] Accordingly, the owner or operator of a facility within the Lake Erie watershed in Ohio must obtain a withdrawal and consumptive use permit from the Chief of the Division of Water Resources. The owner or operator needs a permit if the facility meets any of the following criteria:

- The facility has a new or increased capacity for withdrawals or consumptive uses of at least 2.5 million gallons per day;

[12] R.C. 1522.01, Section 1.2 of the Compact.

[13] R.C. 1522.01, Section 4.8 and 4.9 of the Compact.

[14] R.C. 1522.11.

[15] R.C. 15522.01, Section 1.2 of the Compact.

[16] R.C. 1522.01, Section 4.10 of the Compact.

- The facility has a new or increased capacity for withdrawals or consumptive uses from any river or stream or from ground water in the Lake Erie watershed of at least 1 million gallons per day; or
- The facility has a new or increased capacity for withdrawals or consumptive uses from any river or stream in the watershed that is a high-quality water of at least 100,000 gallons per day.

A permit is not required for withdrawal and consumptive use capacity below these amounts.[17]

Decision-making standards

Additionally, the Compact outlines specific decision-making standards that parties must follow when evaluating withdrawal and consumptive use proposals. The proposals may be approved when the following criteria are met:

- All water withdrawn must be returned to the source watershed unless there is an allowance for consumptive use;
- The withdrawal or consumptive use will be implemented to ensure that the proposal will result in no significant individual or cumulative adverse impacts to the quantity or quality of the water, water dependent natural resources, and the source watershed;
- The withdrawal or consumptive use will be implemented to incorporate environmentally sound and economically feasible water conservation measures;
- The withdrawal or consumptive use will be implemented to ensure that it is compliant with all applicable municipal, state, and federal laws and regional interstate and international agreements; and
- The proposed use is reasonable, based on certain considerations.[18]

The Chief cannot issue a withdrawal and consumptive use permit if the facility does not meet the decision-making standards.[19]

Water conservation and efficiency program

The Compact also requires that each party state develop and implement a water conservation and efficiency program. The program must promote environmentally sound and economically feasible water conservation measures, including measures that promote the efficient use of water; identification and sharing of best management practices and conservation and efficiency technologies; application of sound planning principles; demand-side and supply-side measures or incentives; and development, transfer, and application of science and research. Under the Compact, a conservation and efficiency program may be voluntary or mandatory.

[17] R.C. 1522.12(A) and (C).

[18] R.C. 1522.01, Section 4.11 of the Compact.

[19] R.C. 1522.13(A).

In Ohio, the Chief of the Division of Water Resources has established Ohio's Water Conservation and Efficiency Program as a voluntary program. According to the Compact, Ohio's program must be consistent with following basin-wide goals:

- Ensuring improvement of the waters and water dependent natural resources;
- Protecting and restoring the hydrologic and ecosystem integrity of the Basin;
- Retaining the quantity of surface water and groundwater in the Basin;
- Ensuring sustainable use of Basin waters; and
- Promoting the efficiency of use and reducing losses and waste of water.[20]

Consult ODNR's website for more information about Ohio's Water Conservation and Efficiency Program, which shows the total ground and surface water use of all water users registered in ODNR's Water Withdrawal Facility Registration Program (facilities with a capacity of 100,000 gallons per day or more).

Annual reporting

As a condition of the Compact, Ohio must report its water withdrawals, consumptive uses, and diversions annually to the Great Lakes – St. Lawrence River Basin Water Resources Council and the Regional Body (the members of the Council and the Premiers of Ontario and Quebec or their designee). Accordingly, the Great Lakes Commission prepares and publishes the "Annual Report of the Great Lakes Regional Water Use Database" for the Council and Regional Body each year. The last published report examines 2024 water use data. That report states two notable water use changes in Ohio from the previous year (2023):

- A 2.4% increase in withdrawals for the public water supply sector – while relatively small, this increase is due to recent economic development and the addition of data centers which often utilize public water supplies for cooling.
- In 2024, Ohio faced its worst drought since the historic drought of 1988. ODNR worked with all levels of government to provide necessary information and locations of emergency supplies. Increased drought events, coupled with increased water demand for emerging industry continue to be examined through various regional water studies, the Ohio Groundwater Observation Well network, and demand trend analyses.[21]

[20] R.C. 1522.01, Section 4.2 of the Compact; R.C. 1522.05; and see Authority for Program, Goals & Objectives.

[21] Annual Report of the Great Lakes Regional Water Use Database, Representing 2024 Water Use Data (PDF), see pages 54-57 for Ohio water use data.

Ohio water conservation – ODNR contact information

Best management practices and water conservation and efficiency research can be shared with ODNR staff by email. According to its website, ODNR encourages and welcomes input on ODNR's water conservation efforts from the public, water use managers, and water withdrawal facility owners.[22]

[22] Ohio Water Conservation and Efficiency Program, see "Contact Us."