



Printable version: Thursday, February 15, 2007

5. GREAT LAKES: Minn. lawmakers advance multi-state water management compact

Arthur O'Donnell, *Land Letter* editor

Minnesota is expected to become the first state to enact provisions of the Great Lakes-St. Lawrence River Basin Water Resources Compact following action in the state Senate this week to pass **S.F. 38**. Earlier this month, the House passed its version of the measure, **H.F. 110**, setting the matter up for quick approval by Gov. Tim Pawlenty (R), who has already endorsed the compact, along with seven other governors and the heads of two Canadian provinces.

Necessary legislation in the other states has been lagging. So far this year, only Illinois and Indiana lawmakers have introduced bills related to the compact besides those in Minnesota.

"Minnesota would be the first state to complete ratification," of the compact, said David Naftzger, executive director of the Council of Great Lakes Governors.

Last year, four states -- New York, Ohio, Illinois and Michigan -- introduced bills, but none of them made it to enactment. In New York and Ohio, the measures passed through one house of the state legislatures but not the other. There has been nothing proposed in Pennsylvania or Wisconsin.

"We expect bills will be reintroduce this year," Naftzger told *Land Letter*. Illinois "will likely see action" this year, he said.

The compact was the product of over five years of negotiations, leading to a formal signing by the governors and provincial leaders in December 2005. Among its provisions, the agreement would prohibit new diversions of water from the basin, except for limited exceptions for public drinking water. Diversions of more than 100,000 gallons over a 90-day period would have to be approved by a regional body established by the compact and are subject to return either to the source or another watershed.

Also, states agree to collect data and share information; they will establish regional conservation goals; and devise policies that balance economic development with sustainable water management practices. Finally, the signatory states recognize that the Great Lakes and the many waterways that connect to them are a "shared treasure" to be managed as a public trust.



The Great Lakes, as seen from a satellite. States and provinces adjoining the lakes have formed a compact for water management, now wending its way through various legislatures. Photo courtesy of the state of Michigan.

In at least one instance, this "public trust" language appears to have helped scuttle legislation. Last year, when Ohio's House passed its bill, state Sen. Tim Gendell (R) vowed to prevent further action because the compact "could turn private property into public trust property" despite an amendment that specifically protected private rights as they existed before the compact was signed ([Greenwire](#), Dec. 14, 2006).

Naftzger, however, said that the failure of the measure in Ohio had more to do with time constraints and that Gov. Bob Taft (R) would be leaving office by the end of the year to make way for newly elected Gov. Ted Strickland (D).

In fact, Naftzger said, there has been a tremendous amount of turnover in virtually every state since the negotiation process for the compact was begun, with political control over some legislatures changing hands and a few instances, like in New York, where the new governor is from the opposite political party.

Still, he maintained, "The compact is not a partisan issue." Political changes just mean there are new lawmakers who need to be educated about the deal and its benefits, he said.

A few years ago, there were a number of proposals raised to divert Great Lake water supplies. Most were hypothetical, Naftzger said, but one plan by an Ontario group to ship water to Asia actually won permits from Canadian agencies. Threats such as that spurred interest in a better coordination of water management for the region.

As for concerns over private property rights, Naftzger admitted it has become a public issue in some states, but something that was well discussed and "addressed to the satisfaction" of the governors when they signed onto the deal.

There are still some matters to be worked out in administering the compact and policing water diversions once it is enacted by all and endorsed by federal agencies as required.

Tim Eder, executive director of the Great Lakes Commission, said his organization might have a continuing role in maintaining a database of diversions, as it has under an existing multi-state agreement. But the new regional body will be making determinations on diversion requests, he said.

[Click here](#) to see a copy of the Great Lakes-St. Lawrence River Basin Water Resources Compact.

Invasives controls wanted for Great Lakes

Separately, the Minnesota Legislature is considering several measures that call for state or federal controls over ballast water from ships plying the Great Lakes, as a way to control invasive aquatic species. One bill, **H.R. 74**, is a resolution urging Congress to enact ballast water regulations, including requiring disinfecting and sterilizing ballast emissions. So far, there are at least three other measures introduced that call for some level of ballast regulations.

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