

Protecting the Waters of the Great Lakes: The “Annex 2001” Process

The Great Lakes hold nearly 20 percent of the world’s available fresh surface water, and 95 percent of the fresh surface water in the United States. The lakes and their tributaries provide drinking water for forty million people in the region. Yet, while the Great Lakes are enormous and vast, less than 1 percent of their water is renewed annually, making the lakes fragile and vulnerable to depletion. Eight states—Michigan, Wisconsin, Ohio, New York, Indiana, Illinois, Minnesota, and Pennsylvania—and two Canadian provinces—Ontario and Québec—share the Great Lakes. The ten jurisdictions have a long history of unfulfilled handshake agreements on water with lofty goals of joint management and water conservation.

But the growing threat of harmful exports and diversions of water out of the Great Lakes Basin, and, to some degree, overuse and mismanagement of water within the Basin, have spurred the states and provinces to action. After an expensive study of current laws and policies to protect the lakes revealed significant weaknesses, the basin governors and premiers signed an agreement-in-principle, commonly known to as Annex 2001, to change the way we do business in the Great Lakes when it comes to water. The jurisdictions agreed to manage all basin water, including basin stream and groundwater, according to three principles:

1. Preventing or minimizing water loss through “return flow” and “environmentally sound and economically feasible” water conservation
2. Preventing harm to the quantity or quality of the water or the living things that depend on it, both by individual water taking projects and cumulatively over time
3. “Improving” the waters and the ecosystem when we take water from the basin lakes, streams, or ground



This July the governors and premiers made a down payment on their Annex 2001 promises by releasing two proposed agreements—a “compact” between the eight states that would be approved by Congress and be enforceable in U.S. federal court thereafter, and a voluntary international agreement between the eight states and two provinces that would provide consistency across the basin. Together, the two agreements would jointly manage diversions and large water uses and create uniform standards to manage all water takings.

The states and provinces are asking for public comment on their efforts through October 18.

Now is the time for concerned citizens of the Great Lakes basin to voice our concerns. Do the agreements cover all the potential threats to the lake? Are they strong enough?

You can comment to your individual state or provincial government. Connect to www.speakongreatlakes.org for hearing dates and electronic and surface mail addresses.

Any state or provincial citizen can also send a comment letter to Executive Director David Naftzger of the Council of Great Lakes Governors at annex2001@cglg.org or at 35 E. Wacker Dr. #1850, Chicago, Illinois, 60601. You can also provide written comments on a Web bulletin board at www.cglg.org.

For hearing dates, fact sheets, commentary, and more, connect to www.speakongreatlakes.org.

Public Comment: Points to Consider

Throughout the four years of the “Annex 2001” process, a coalition of nearly a dozen conservation and environmental organizations has been working to assure that state and provincial negotiators understand the measures that are needed to adequately care for the Great Lakes – St. Lawrence River ecosystem. Although both proposed agreements—the “compact” between the eight states that would be approved by Congress and the voluntary international agreement between the eight states and two provinces—are important for fully protecting the basin, the points below address only the eight-state compact, because it is planned to be enforceable and offers the most certain chance that protections will remain in place in the long run.

The coalition has identified the following points about the compact to consider in making public comment:

1. There are many positive aspects of the proposed compact, including significant enforcement and public participation provisions. To be effective, **the currently proposed compact must not be weakened.**
2. The document requires conservation “plans” and “measures” for water withdrawers, but does not define those terms. To ensure effective conservation, the document should provide guidance and goals for such plans and measures. The best way to do this is to at least **loosely link the compact to the more detailed commitments on all the standards found in the international agreement.**
3. **The “improvement” standard**—a precedent-setting provision to move toward always leaving the ecosystem in better shape when humans use its resources—**should apply to all withdrawals, not just a few.** Subjecting withdrawals to the three key standards—no harm, conservation, and “improvement”—was the core commitment of the “Annex 2001” agreement-in-principle.
4. **The definition of withdrawal quantities should be averaged over 30 days, not over 120 days.** Long averaging periods will exempt from oversight many water projects certain to cause ecosystem damage.
5. **The exemption from the return flow standard for diversions of 250,000 gallons per day or less should be deleted.** It sets a bad precedent, undermines the rest of the compact, and will help sprawl.
6. For in-basin withdrawals that do not require basinwide approval, **the states have ten long years to put new rules in place.** Instead, **the time frame should be five years.** Too long a phase-in time between commitment to reform and its actual implementation could cause the entire compact to fail.
7. **The level of in-basin use requiring eight-governor approval should be lowered from 5 million gallons per day of lost water to 1 million gallons.** The draft compact says all eight governors must approve diversions of 1 million gallons per day or more, but for in-basin uses it takes water losses five times as big—5 million gallons per day or more—before all the governors decide. This difference is so blatant that it puts in question the ability of compact decisions to stand up in court. The amounts of lost water requiring eight-governor approval should be the same for diversions and for in-basin uses.
8. **The compact must specifically protect public trust responsibilities and rights.**
9. The compact seems to require returning the actual water withdrawn, a key protection against introducing invasive species. **The requirement to return the same water must be stated more clearly.**
10. After use, **water should be returned as close as possible to its source,** not anywhere in the source’s lake watershed. For local ecosystems, distant returns can be as damaging as no return at all.
11. **The current governors’ veto over diversions must remain in place** until the compact is implemented.

Please attend your nearest hearing and send in comment on this critical proposed agreement.