

To: Sara Lynaugh, OWRC Administrative Assistant
From: Christopher R. Schraff
Date: March 24, 2009
Re: Comments Regarding the Preliminary Draft Ohio Lake Erie Basin Water Conservation Goals & Objectives

I reviewed the Preliminary Draft "Ohio Lake Erie Basin Water Conservation Goals & Objectives," which is apparently taken more or less verbatim from the Basin Wide Water Conservation and Efficiency Objectives which have been adopted by the Great Lakes Council. While these items are helpful, there are some 26 separate bullet points which are included in the Basin Wide Water Conservation and Efficiency Objectives. I think that it would be difficult to use these 26 separate points as a starting point for the discussion of water conservation goals and measures because it may prove difficult to utilize such a wide-ranging set of objectives as a starting point to identify water conservation measures.

As an alternative starting point, I would propose that the Advisory Board begin with the 5 basin-wide water conservation and efficiency objectives listed in Section 4.2, Paragraph 1a. through e. Those objectives are:

- a. ensuring improvement of the Waters and Water Dependent Resources;
- b. Protecting and restoring the hydrologic and ecosystem integrity of the Basin;
- c. Retainning the quantity of surface water and groundwater in the Basin;
- d. Ensuring sustainable use of Waters of the Basin; and
- e. Promoting the efficiency of use and reducing losses and waste of Water.

The Advisory Group can then focus on the five "Environmentally Sound and Economically Feasible Water Conservation Measures" items identified in Section 4.2, Paragraph 4 of Am. H. B. No. 416. These measures are:

- a. measures that promote the efficient use of water;
- b. Identification and sharing of best management practices and state of the art conservation and efficiency technologies;

March 24, 2009

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Page 2

- c. Application of sound planning principles;
- d. Demand-side and supply-side measures or incentives; and
- e. Development, transfer and application of science and research;

By starting at this point, we pare down the list of items to a manageable set of water conservation goals and measures which require discussion and recommendations.

I also think that we need to understand how water is used, consumed and recycled within the Lake Erie Basin. Much of the most intensive use of water may occur in agricultural activities.

One critical issue which the Advisory Board must consider is whether to recommend voluntary or mandatory measures as part of the conservation and efficiency program. It seems to me that voluntary measures will be more acceptable to the public and the business community, particularly if appropriate incentives can be identified to encourage the use of such measures. The 5 measures identified in Section 4, Paragraph 4 of Am. H.B. No. 416 may help to focus the discussion on a limited number of practical and meaningful measures which can voluntarily be implemented by water users in the portion of Ohio which falls within the Great Lakes Basin.

CRS:crs

PRELIMINARY DRAFT

Ohio Lake Erie Basin Water Conservation Goals & Objectives

The starting point in the development of the Water Conservation Goals & Objectives to be adopted for Ohio's Lake Erie Basin will be the Regional (Basin-Wide) Water Conservation Goals & Objectives that have already been adopted for the Great Lakes Basin by the Compact Council and the Regional Body. These regional goals & objectives are reiterated in this preliminary draft for review and commentary.

Goals

while protecting private usage rights and facilitating economic development and agriculture.

1. Ensure the improvement of the waters and water dependent natural resources of the Great Lakes Basin;
2. Protect and restore the hydrologic and ecosystem integrity of the Great Lakes Basin;
3. Retain the quantity of surface water and ground water in the Great Lakes Basin;
4. Ensure the sustainable use of the waters of the Great Lakes Basin;
5. Promote the efficiency of use and the reduction of losses and waste of water.

Objectives

Guide programs toward long-term sustainable water use.

- Use adaptive programs that are goal-based, accountable and measurable.
- Develop and implement programs openly and collaboratively, including with local stakeholders, Tribes and First Nations, governments and the public.
- Prepare and maintain long-term water demand forecasts.
- Develop long-term strategies that incorporate water conservation and efficient water use.
- Review and build upon existing planning efforts by considering practices and experiences from other jurisdictions.

Adopt and implement supply and demand management to promote efficient use and conservation of water resources.

- Maximize water use efficiency and minimize waste of water.
- Promote appropriate innovative technology for water reuse.
- Conserve and manage existing water supplies to prevent or delay the demand for and development of additional supplies.
- Provide incentives to encourage efficient water use and conservation.
- Include water conservation and efficiency in the review of proposed new or increased uses.
- Promote investment in and maintenance of efficient water infrastructure and green infrastructure.

Same change as page 1

Improve monitoring and standardize data reporting among State and Provincial water conservation and efficiency programs.

- Improve the measurement and evaluation of water conservation and water use efficiency.
- Encourage measures to monitor, account for, and minimize water loss.
- Track and report program progress and effectiveness.

Develop science, technology and research.

- Encourage the identification and sharing of innovative management practices and state of the art technologies.
- Encourage research, development and implementation of water use and efficiency and water conservation technologies.
- Seek a greater understanding of traditional knowledge and practices of Basin First Nations and Tribes.
- Strengthen scientific understanding of the linkages between water conservation practices and ecological responses.

Develop education programs and information sharing for all water users.

- Ensure equitable public access to water conservation and efficiency tools and information *while protecting private water rights and*
- Inform, educate and increase awareness regarding water use, conservation and efficiency and the importance of water. Promote the cost-saving aspect of water conservation and efficiency for both short-term and long-term economic sustainability. *Inform, educate and increase public awareness of private water rights and*
- Share conservation and efficiency experiences, including successes and lessons learned across the Basin.
- Enhance and contribute to regional information sharing.
- Encourage and increase training opportunities in collaboration with professional or other organizations in order to increase water conservation and efficiency practices and technological applications *and private water rights . . .*
- Ensure that conservation programs are transparent and that information is readily available. *and private water rights*
- Aid in the development and dissemination of sector-based best management practices and results achieved.
- Seek opportunities for the sharing of traditional knowledge and practices of Basin First Nations and Tribes.

See Pg. 1
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Ohio Institutional Protection of those rights

and private water rights

Comments on the Draft Goals and Objectives for Formulating Ohio's Lake Erie Basin Water Conservation Program

Alliance for the Great Lakes • Audubon Ohio • Environment Ohio • Friends of Crooked River • Green Environmental Council • National Wildlife Federation • Ohio Bass Federation • Ohio Environmental Council • Ohio League of Conservation Voters Education Fund • The Nature Conservancy in Ohio

April 10, 2009

The preliminary draft of Ohio's goals and objectives is based on the goals and objectives adopted by the Regional Body on December 8, 2008. While Ohio's goals and objectives must be consistent with the regional ones, the undersigned organizations believe that the regional document demonstrates what Ohio should not put forth. Ohio should avoid vague, worthy-sounding objectives that will not result in any actual conservation or efficiency.

On June 8, 2007, 59 conservation and environmental organizations from across the basin, including those here in Ohio, submitted detailed comments on the regional goals and objectives to the Regional Body. Those comments are attached. While the letter focused in part on the basin-wide impact of the document, the vast majority of the comments are relevant to Ohio. As we said then, "The objectives should be specific enough, strong enough, and clear enough to let a jurisdiction and its public know if its program is truly working toward conserving water, and if in fact it is succeeding in doing so."

In the spirit of those comments, the groups listed above think the objectives should be as specific as possible and provide measurable targets. We suggest three sets of objectives as a first step:

(1) **Adopt objectives for reducing water use by a specified percentage by 2013 and every five years thereafter.** This would allow the state to assess the effectiveness of its conservation and efficiency programs in compliance with Section 4.2.3 of the Compact. Ideally, the objective would include both a basin-wide target and one for each water use sector. The Great Lakes – St. Lawrence Cities Initiative has already adopted a target of reducing water use below year 2000 water consumption levels by 15% by 2015 as part of their Water Conservation Framework. More information can be found here: <http://www.glsocities.org/watercons.htm>.

(2) **Adopt objectives for improving water loss rates by water use sector by a specified percentage by 2013 and every five years thereafter.** The Drought Incident Annex to Ohio's Emergency Operations Plan already includes a goal for public water systems of keeping unaccounted for water losses below 10 percent during normal conditions. More information can be found here: http://ema.ohio.gov/Documents/Ohio_EOP/drought_annex.pdf. We suggest the

goal for distribution system water loss be zero. To reach this goal of zero loss, we suggest source and service water metering requirements, which is a key component of any water efficiency program. Source and service meters can help determine water losses through leaks, assist in managing the resource, and enhance planning activities. More information on water meters can be found here:

http://www.epa.gov/watersense/docs/app_a508.pdf#Page=2 and

<http://www.mrsc.org/Subjects/Environment/water/wc-measures.aspx>. The City of St. Catharines in Ontario has seen a benefit from water metering. More information can be found here: http://www.glslcities.org/watercons_stcatharines.htm.

(3) **Adopt objectives for each water use sector to use "best management" practices for conservation and efficiency.** Several organizations have developed or are in the process of developing these practices. For example, there is a new effort by a group of environmental, business and social development organizations to formulate standards for "water stewardship certification." More information on the "Alliance for Water Stewardship" can be found here:

<http://www.allianceforwaterstewardship.org/>. In addition, the USEPA, Region 9 has some information on water and energy efficiency by sectors. More information can be found here:

<http://www.epa.gov/region09/waterinfrastructure/waterconservation.html>.

Adoption of "best management practices" benefits, including cost, water, and energy savings, can be found in *Cases in Water Conservation: How Efficiency Programs Help Water Utilities Save Water and Avoid Costs*, which can be found at:

http://www.epa.gov/WaterSense/docs/utilityconservation_508.pdf.

June 8, 2007

Regional Body
Great Lakes – St. Lawrence River Basin Water Resources Agreement

Dear Regional Body members:

The undersigned organizations appreciate the efforts of the Conservation Committee in preparing a draft of the water conservation and efficiency objectives called for by Article 304 of the Great Lakes – St. Lawrence River Basin Sustainable Water Resources Agreement. Unfortunately, we are seriously disappointed with the outcome of those efforts.

The Conservation Committee has failed to act upon many of the fundamental and structural suggestions made by the Committee's Advisory Panel, even those that found widespread agreement among the disparate interests represented on that panel. We are disappointed to have to submit the following extensive critique of these draft objectives. However, we do so in the hope that the Regional Body and the Conservation Committee will closely review and reconsider the draft objectives and make the improvements we believe are called for by the Agreement.

As outlined in detail below, the draft objectives are much too weak to propel the region toward serious and effective water conservation efforts. We support objectives that allow substantial flexibility as to how individual jurisdictions can achieve them. However, such objectives must ultimately obtain results. We are strongly opposed to the draft objectives because these would allow jurisdictions to give the impression that they are carrying out comprehensive water conservation programs while possibly achieving absolutely no gains or improvement. We urge that the water conservation objectives be rewritten to incorporate assurances that measurable conservation and water efficiency will be achieved in each jurisdiction.

To understand how these objectives should be written, it is necessary to see their role in the larger context of state and provincial water conservation programs. The Agreement requires the provinces and states to develop their individual programs "based on" their own goals and objectives, which in turn must be "consistent with" the Regional Body's objectives. The objectives set out by the Regional Body thus have no direct binding force upon the state and provincial programs. This "advisory" function of the Regional Body's objectives presents the perfect opportunity for the governments across the region to set out ambitious and forward-looking objectives that will give all jurisdictions ultimate targets for which to strive.

The draft objectives do not do this.

The Agreement calls for such a progressive objective-setting approach when it requires that these objectives be based on the following five goals:

1. Ensuring improvement of the waters and water dependent natural resources
2. Protecting and restoring the hydrologic and ecosystem integrity of the Basin
3. Retaining the quantity of surface water and groundwater in the Basin

4. Ensuring sustainable use of waters of the Basin
5. Promoting the efficiency of use and reducing losses and waste of water

These goals embody the overall goals of the Agreement and the ten jurisdictions' commitment to our Great Lakes waters and water-dependent natural resources. By basing water conservation and efficiency objectives on these goals, the Agreement makes clear that water conservation must include the achievement of all of these goals: improvement, protection, sustainability and efficiency. If the Agreement is to be more than stirring words, then the Regional Body's water conservation objectives must guide the provinces and states to accomplish these goals. The objectives should be specific enough, strong enough, and clear enough to let a jurisdiction and its public know if its program is truly working toward conserving water, and if in fact it is succeeding in doing so.

A weak conservation framework in any of the jurisdictions could lead to weakening the decision-making standards (Article 201.2.b.ii. and .c.ii, .3d and .4e) by allowing applicants for withdrawals to argue that weak and vague conservation efforts meet the standard of that jurisdiction.

Furthermore the Agreement provides for a five-year review of each jurisdiction's program's fulfillment of the terms of the Agreement. Without clearly articulated conservation goals and objectives from the outset this review could become relatively meaningless.

Simply put, the Regional Body's draft objectives do not satisfy the Agreement's requirements.

Please see the attached document for our detailed critique of the draft objectives. We welcome further communications with you and the Conservation Committee concerning any of our comments. We thank you for the opportunity to provide these comments and look forward to your release of a greatly improved set of objectives.

Sincerely,

16th Street Community Health Center
Alliance for the Great Lakes
American Public Information on the Environment
Audubon Minnesota
Blue Mountain Watershed Trust Foundation
Canadian Environmental Law Association
Canandaigua Lake Watershed Alliance
Citizens for Alternatives to Chemical Contamination
Citizens Campaign for the Environment (New York)
Citizens Concerned for Michipicoten Bay
Clean Water Action Alliance (Minnesota)
Clean Water Action Council of Northeast Wisconsin
Clean Water Action (Michigan)
Development Without Destruction

Duluth Audubon Society
EarthWatch Ohio
Environmental Advocates of New York
Environment Illinois
Environment Michigan
Friends of Milwaukee's Rivers
Great Lakes Habitat Network and Fund
Great Lakes United
Illinois Environmental Council
Indiana Wildlife Federation
Lake Superior Conservancy and Watershed Council
Land Stewardship Project
League of Ohio Sportsmen
Mankato Area Environmentalists
Michigan Environmental Council
Michigan Land Use Institute
Michigan League of Conservation Voters
Midwest Environmental Advocates
Milwaukee County Conservation Coalition
Minnesota Center for Environmental Advocacy
Minnesota Conservation Federation
Minnesota COACT
Minnesota Environmental Partnership
National Wildlife Federation
Northern Michigan Environmental Action Council
Northwoods Wilderness Recovery
Ohio Environmental Council
Ohio League of Conservation Voters Education Fund
Ontario Nature
POLIS Project on Ecological Governance
Prairie Rivers Network
Presque Isle Audubon Society
Religious Coalition for the Great Lakes
River Alliance of Wisconsin
Save the Dunes Council
Sierra Club (United States)
Sierra Club of Canada
Sweetwater Alliance
Three Lakes Association of Michigan
Tip of the Mitt Watershed Council
Western Lake Erie Association
Wisconsin Great Lakes Coalition
Wisconsin League of Conservation Voters
Wisconsin Wetlands Association
Wisconsin Wildlife Federation

Attachment

Comments of

**16th Street Community Health Center
Alliance for the Great Lakes
American Public Information on the
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Audubon Minnesota
Blue Mountain Watershed Trust Foundation
Canadian Environmental Law Association
Canandaigua Lake Watershed Alliance
Citizens for Alternatives to Chemical
Contamination
Citizens Campaign for the Environment
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Clean Water Action Alliance (Minnesota)
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Wisconsin
Clean Water Action (Michigan)
Development Without Destruction
Duluth Audubon Society
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Environmental Advocates of New York
Environment Illinois
Environment Michigan
Friends of Milwaukee's Rivers
Great Lakes Habitat Network and Fund
Great Lakes United
Illinois Environmental Council
Indiana Wildlife Federation
Lake Superior Conservancy and Watershed
Council
Land Stewardship Project
League of Ohio Sportsmen
Mankato Area Environmentalists
Michigan Environmental Council**

**Michigan Land Use Institute
Michigan League of Conservation Voters
Midwest Environmental Advocates
Milwaukee County Conservation Coalition
Minnesota Center for Environmental
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Tip of the Mitt Watershed Council
Western Lake Erie Association
Wisconsin Great Lakes Coalition
Wisconsin League of Conservation Voters
Wisconsin Wetlands Association
Wisconsin Wildlife Federation**

on the

Draft Regional Water Conservation and Efficiency Objectives

June 8, 2007

Summary

Overall, the regional conservation objectives fail to provide the specificity, clarity and progressive guidance state and provincial policymakers will need in order to fashion water

conservation and efficiency programs that lead to accomplishing the goals identified in the Agreement.

Appropriately, the first objective declares that the provincial and state programs should be accountable and measurable. Unfortunately, none of the ensuing objectives are crafted in a way to ensure their measurability, severely hampering the ability of anyone to hold the jurisdictions accountable for achieving them.

These draft objectives are merely general points related to water conservation for policymakers to consider. They do not require measurable, accountable actions. True objectives reasonably lead to achieving goals. These draft objectives do not do this.

The Regional Body's Conservation Committee defends this defect in the draft document by saying in its introduction that, "These objectives are intended to be broad, overarching concepts which will provide context for further State and Provincial action that will be more specific in nature." However, these conservation and efficiency objectives are a mandate of Article 304 of the Great Lakes–St. Lawrence River Basin Sustainable Water Resources Agreement. Article 304 says nothing about "broad, overarching concepts." Instead, Article 304 says the draft objectives should lead to achievement of five specific goals:

1. Ensuring improvement of the waters and water dependent natural resources
2. Protecting and restoring the hydrologic and ecosystem integrity of the Basin
3. Retaining the quantity of surface water and groundwater in the Basin
4. Ensuring sustainable use of waters of the Basin
5. Promoting the efficiency of use and reducing losses and waste of water

These goals embody the overall goals of the Agreement and the ten jurisdictions' commitment to our Great Lakes waters and water-dependent natural resources. By basing water conservation and efficiency objectives on these goals, the Agreement makes clear that water conservation must include the achievement of all of these goals: improvement, protection, sustainability and efficiency.

Since the state and provincial water conservation programs will be two steps removed from these objectives (programs are "based on" jurisdictions' own goals and objectives, which must be "consistent with" the Regional Body's objectives), the objectives set out by the Regional Body have no direct binding force upon the state and provincial programs. However, these objectives *are* required to assist the jurisdictions to achieve the five goals listed above. Given this role, these objectives must be ambitious, forward-looking, and reasonably specific and strong enough to guide the provinces and states to accomplish these goals.

The draft objectives are both so vague and so diverse that they seem to lose sight of their essential purpose—the need for water users in the basin to conserve and efficiently use water so that they will improve, protect, retain and sustainably and efficiently use basin waters and thereby protect water-dependent natural resources. The objectives should collectively point toward desired states of regional water conservation.

The draft objectives do not satisfy this purpose. Despite the existence of advanced conservation programs all over the world that provide examples of detailed and specific objectives, the draft objectives contain no numbers, nor even pledges to come up with numbers, related to conservation and efficiency targets, such as the maximum acceptable rates of water loss the region should accept for given kinds of water uses or the maximum amounts of water acceptable for removal from the region's various aquifers, streams, rivers, lakes and the Great Lakes themselves.

As a general expression of what we as a region aspire to in protecting our waters, the objectives should aim high. The five goals listed in the Agreement must be in the sights of all the provinces and states, even if it is clear that it will take some time to achieve the goals. The only way to ensure this is for the Regional Body to provide the guidance needed to get there by setting forth specific, strong and clear objectives for both the jurisdictions and the basin public to whom they are accountable.

The draft objectives do not aim high. At least twenty of the twenty-five bulleted objectives suggest actions that could be carried out simply with paper exercises that achieve no actual water conservation in the real world. A jurisdiction could fulfill all twenty-five bulleted objectives while leaving its water consumption unchanged. These draft objectives do not lead the states and provinces to achieving the Agreement's goals. To do so, the draft requires a substantial and thorough rethinking and revision.

To their credit, the states and provinces have constituted and continue to consult an advisory panel to assist them in writing these objectives. That panel includes representatives of Great Lakes United, National Wildlife Federation, the Alliance for the Great Lakes and the Nature Conservancy, among other groups. Committee members were given a chance to comment on previous drafts of the objectives.

Unfortunately, the provincial and state officials involved in writing the objectives have failed to benefit from this panel, ignoring many of the fundamental and structural suggestions made by its members, even those shared by industry and conservationists alike.

We are more than disappointed that, less than two years after signing their landmark Agreement on basin water quantity, these draft objectives give the appearance that the provinces and states are failing to fulfill one of their most basic promises under the Agreement.

Detailed Analysis

Overall groupings and individual objectives

The draft objectives document should make clear that

- 1) The five headings used to organize the bulleted objectives are also objectives in their own right that the states and provinces are to achieve

- 2) The bulleted objectives are merely some of the means by which the jurisdictions may achieve the objectives set forth in the headings.

Objectives grouping #1

“Guide programs toward long-term sustainable water use”

- **Use adaptive programs that are goal-based, accountable and measurable.**

This is an important, fundamental objective, but should be more specific to allow jurisdictional programs to effectively work toward its achievement. Rather than calling for “goal-based” programs, the objective should say that these goals are the five goals already agreed on by the jurisdictions and specifically listed in Article 304 of the Agreement. Rather than saying the programs should be “accountable”, the objective should add something to give that term meaning, such as allowing for public comment on the publicly available annual report required by Article 304. To make the programs “measurable,” the objective should list the basic items—for example, improvements in water loss rates by water use sector—that an effective program should measure.

- **Develop and implement programs openly and collaboratively.**

As above, we would like to see some additional detail included in this objective. We suggest that program “openness” be defined in the objective, specifically, that it be defined to mean public consultation during both conservation program design and its subsequent implementation. To assist in achieving this “collaboratively”, governments should be required to 1) provide basic resources to key civil sectors that are unlikely to be able to comment on program design and implementation without assistance and 2) make all documents available to everyone (including conservation, recreation, and indigenous organizations) in a timely manner.

- **Prepare and maintain long-term water demand forecasts.**

This is an excellent objective. The jurisdictions should include in this objective a forecasting time frame, for example, fifty years, and periodic updates, for example, every five years, so that there is consistency in long-term forecasting across the basin. This would make coordination with federal studies easier as well as providing a better basis for regional planning.

This objective should also require long-term water *supply* forecasts. Both forecasts are required for effective water use management.

The forecasts should include assessment of the impact of population growth, changes in regional economic activity and residential patterns, climate change, and potential effectiveness of water conservation programs. In particular, the forecasts should acknowledge the impact of widely predicted scenarios of decreased groundwater recharge and lower lake levels.

There should also be a collective dimension to this objective, with the individual assessments aggregated into an assessment of basinwide water demand and supply prospects.

- **Develop long-term strategies that incorporate water conservation and efficient water use.**

This is an area where the Regional Body could propose a collective objective for the jurisdictions to jointly pursue. For example, the document could recommend collective commissioning of studies on topics such as:

- Best conservation practices around the world,
- How other regions of the world have maintained long-term water conservation strategies during periods of stable water supply and reduced public interest in water conservation
- Innovative ways to provide incentives for water conservation among private sector water users.

- **Review and build upon existing planning efforts.**

We hope in the age of limited government financial resources, the jurisdictions will do this as a matter of course. A more effective objective on this subject would have a collective character, for example, the holding of a basinwide conference at which all the jurisdictions would present their current planning efforts, followed by small-group discussion of ways to build on and improve them.

Objectives grouping #2

“Adopt and implement supply and demand management to promote efficient use and conservation of water resources”

- **Maximize water use efficiency and minimize waste of water.**

This objective deals with the core of any water conservation effort; but how will the jurisdictions determine what constitutes maximum efficiency when none of the other objectives involve quantifying water conservation? Without a context that promises an eventual list of ranges of ideal water use levels and acceptable water losses for given water uses basin-wide, state and provincial water conservation programs will have no measure against which to be accountable for efficiency gains and waste reduction.

The ten jurisdictions should have as a collective objective the establishment of ranges of acceptable water loss by water use sector. This is a basic requirement for a water conservation program and should be determined at a region-wide level.

- **Promote innovative technology for water reuse as appropriate.**

This objective is substantially weakened by the addition of the phrase “as appropriate.” It removes any pressure on jurisdictions to look seriously at reuse options. This phrase should be deleted. Water reuse is a conservation option that some businesses have expressed great interest in. As such, the jurisdictions should seriously consider water reuse as a means of strengthening their water conservation programs.

To be useful to any program or measurable by the public, this objective should include a range of options for promoting innovative technology for water reuse. The Regional Body could conduct a study of existing technology promotion efforts and additional ways the jurisdictions and the Regional Body could promote reuse among various water use sectors. By conducting thoughtful research on water reuse and the successful promotion of these technologies, the jurisdictions will be able to make more meaningful efforts toward achieving this objective in their water conservation and efficiency programs.

- **Conserve and manage existing water supplies to prevent or delay the demand for and development of additional supplies.**

This is an important objective that could be strengthened by following our suggestions for the first objective in this grouping.

- **Provide incentives to encourage efficient water use.**

This objective is more in the nature of preference for one of the many means by which a jurisdiction can achieve the first part of the first objective in this grouping, “maximize water use efficiency.” We agree that the jurisdictions should provide incentives to encourage environmentally responsible behavior, but, as with so many of these objectives, it needs further elaboration. The objective needs to address determining what constitutes a good incentive package. Also this objective should include incentives to “minimize waste of water.”

This objective should be coupled with a commitment to remove disincentives to efficient water use and the minimization of the waste of water. . For example, the jurisdictions could agree to an objective of ending the practice of water supply pricing systems that provide lower rates for greater use, a common practice that encourages waste.

One way to improve this objective would be to give it a collective character, for example, by establishing a basinwide committee to study the range of possible incentives to good behavior used around the world, assess their relative cost effectiveness, and ultimately provide a list of incentives from which jurisdictions could choose when designing their programs.

- **Include water conservation and efficiency in the review of proposed new or increased uses as appropriate.**

This objective is not needed because it is required in the Agreement’s Article 203, “The Decision-Making Standard for Management of Withdrawals and Consumptive Uses.”

This objective is actually a step back from that section of the Agreement, which commits the jurisdictions to ensuring that *all* proposals for new and increased water subject to government review *must* institute water conservation measures. The use of the phrase “as appropriate” in this objective is substantially weaker than the iron-clad commitment of Article 203.3. Article 203 does not allow for this regression.

Instead of merely parroting a weaker version of the Agreement, this objective needs to define what would be a good “water conservation and efficiency review” in an approval process for new or increased water uses.

- **Promote investment in and maintenance of efficient water infrastructure and green infrastructure.**

“Promote” is not a strong enough commitment in this objective. The objective should be to “ensure” investment in and maintenance of efficient water infrastructure. As with most of the other objectives, this one needs to define what constitutes adequate “investment” and “maintenance”.

Objectives grouping #3

Improve monitoring and standardize data reporting among State and Provincial water conservation and efficiency programs

This grouping can be described as having two subgroups: 1) improving monitoring, that is, knowing what is going on with water use across the basin, and 2) standardizing reporting, that is, improving the ability of the region to have the same information, in the same technical terms, on the same kinds of activities, all across the basin. These subgroups are commented on as such below.

- **Improve the measurement and evaluation of water conservation and water use efficiency.**

This objective deals with the first item in the grouping title, monitoring. It lacks specificity and therefore accountability. It should require the ten jurisdictions to put their top water management civil servants together in a room to determine what information they need to do their jobs. Implementation of the resulting common set of measurement and evaluation tools should then be an objective of all ten of the basin’s jurisdictional programs.

- **Encourage measures to account for water loss.**
- **Track program progress and effectiveness.**

These objectives bear little relation to the second part of the grouping title, standardizing data reporting, which deals with the states and provinces working together to gather the same data and report it in the same way. This critical need, promised in Article 301 of the Agreement, is indispensable for effective management of the waters of the Great Lakes and St. Lawrence River

basin. The region must eventually be able both to look at its performance as a whole and to measure one jurisdiction's performance against another's. Both capacities are the most basic form of the accountability listed in the document's first objective.

In effect, this grouping has no objectives related to its second component.

There is a related, larger problem that actually applies to all three objectives: they make no reference to the region's jurisdictions working together. It should go without saying that "standardizing" data reporting cannot possibly occur if the ten jurisdictions do not work together on the matter. These objectives address only efforts by the individual jurisdictions to obtain water conservation information. They should be rewritten to make clear that these efforts must be accomplished jointly by all the jurisdictions.

We can also comment on these objectives separately from their poor support for the commendable title of the grouping. The first two objectives, "Improve the measurement and evaluation of water conservation and water use efficiency" and "Encourage measures to account for water loss," are merely a logical prerequisite of the first objective in grouping #2, "Maximize water use efficiency and minimize waste of water." It is not possible to maximize efficiency without knowing how much water is being used, returned, and lost. If this latter objective is written in an appropriately specific and measurable manner, the first two objectives will necessarily be accomplished.

The third objective, "Track program progress and effectiveness," has little value unless it is more specific.

In any case, none of the three objectives addresses the state-provincial standardization called for in the grouping title and in Article 301 of the Agreement. New objectives should be written to accomplish the purpose. An example replacement objective could be,

"Contract with the Royal Society of Canada and the National Academy of Sciences to study the metrics by which water conservation monitoring and data reporting could most effectively serve the overarching water conservation and efficiency goals on a basin-wide level."

Additionally, the Regional Body could work with the Great Lakes Commission, which already houses the collective water use database, or another basin-wide entity, to host a database to house information related to the jurisdictions' water conservation and efficiency programs, and to compile this information in a form that would help regional decision-makers and the public assess progress toward water conservation across the basin.

Objectives grouping #4

“Develop science, technology and research”

The most important research need of any jurisdictional or basin-wide conservation program is a quantitative description of “environmentally sound and economically feasible” water conservation targets and measures. Environmentally sound and economically feasible water conservation measures are required by the Agreement for projects proposing significant new or increased withdrawals of basin water. The objectives should ensure the collective development and/or determination by the ten jurisdictions of these critical conservation measures.

Important indicators of water use efficiency are “consumptive use coefficients”—numeric descriptions of reasonable water consumed by given water use categories such as coal-fired energy production, residential water use, automotive assembly, and the like. These descriptions can and probably should be percentage ranges, and should always be applied recognizing the wide variation likely to be present within any particular sector.

Scientifically sound consumptive use coefficients, or descriptions of acceptable water consumption, or target water use efficiencies, do not currently exist. Studies of national water use conducted every five years by the U.S. Geological Survey abandoned use of earlier-developed coefficients as having insufficient scientific basis. We need these numbers, or ranges of numbers, in order for the basin water conservation strategy to contain appropriate targets. None of the objectives in this critical grouping promote the development of these numbers.

The objectives that are included in this grouping are not specific enough to be useful to the jurisdictions and lack a call for collective action. Developing science, technology, and research could be most effectively and efficiently done collectively. This grouping should include objectives that require the joint activity of all ten jurisdictions in achieving the rest of the objectives.

- **Foster the identification and sharing of innovative management practices and state of the art technologies.**

This general idea is good. As with all the other objectives in the list, “foster” needs to be more specific, defining what constitutes good “identification and sharing” efforts.

- **Encourage research, development and implementation of water use and efficiency technologies.**

Research and development of new technologies is likely too large a task for a single region, especially when the region’s water riches assure there is no particular domestic constituency clamoring for the economic benefits of such technology. The Great Lakes has relatively less government financial resources compared to other regions of the United States and Canada to apply to such an effort in any case

If this objective is to be retained, it should go on to *require* the *implementation* of water use and efficiency technologies as appropriate. The most effective basis for encouraging research and development of new technology is to ensure that the resulting products have a market. Required implementation of efficient technologies is traditionally the bread-and-butter activity of any serious conservation program.

- **Seek a greater understanding of traditional knowledge and practices of Basin First Nations and Tribes**

Some of the jurisdictions have few tribes, some many. All jurisdictions could arguably benefit from the knowledge and experience of basin First Nations and Tribes. This objective's "seeking," should be revised to "obtain," and should be a collective enterprise of all the jurisdictions. Perhaps this objective should be specific in calling for a basin-wide summit meeting to kick off the process, and a publication that meets aboriginal approval.

Objectives grouping #5

"Develop education programs and information sharing for all water users"

- **Ensure equitable public access to water conservation and efficiency tools and information.**

This objective should more explicitly address the reduced access to tools and information in less advantaged social and economic groups by explicitly identifying what equitable access for such groups would look like. It should also go beyond simple access to the real goal of any such objective: participation. The objective should then be specific in identifying what would constitute better opportunities for participation by such groups.

- **Inform, educate and increase awareness regarding water use, conservation and efficiency and the importance of water.**

This is a crucial objective. It has also been carried out in numerous places around the world. This objective should deal with studying those other efforts, determining what application of resources, market penetration, or change in behavior would constitute an effective education program, require the implementation of such a program as appropriate, and then measure resulting increased awareness to determine effectiveness.

- **Share conservation and efficiency experiences, including successes and lessons learned across the Basin.**

This objective is similar to the first objective in grouping #4, which calls for "sharing of innovative management practices and state of the art technologies." Somehow the two objectives should be merged, and, as noted in our general comment on that grouping, the new objective should address some collective activity of the ten jurisdictions. Perhaps this is an area where all

ten governments could agree to contract with an existing organization, such as the Great Lakes Commission, to provide the needed communication.

- **Enhance and contribute to regional information sharing.**

While technically there is a distinction between “contribute” to sharing and simply sharing (the former promising to actually generate something worth sharing), nonetheless this objective should be combined with the above objective.

- **Encourage and increase training opportunities in collaboration with professional or other organizations.**

It is unclear what exactly this objective is intended to achieve. This objective needs to be worded more clearly to make it understandable. Training can be an important means of accomplishing water conservation, but this objective does not specify what sort of training is contemplated, who would be trained, or the goals of this training.

- **Ensure that conservation programs are transparent and that information is readily available.**

This objective duplicates the second objective in the first grouping, and should be combined with it. We strongly support the transparency of conservation programs and access to information related to these programs.

- **Aid in the development and dissemination of sector-based best management practices and results achieved.**

This objective mostly duplicates grouping #4’s first objective and should be combined with it.

- **Seek opportunities for the sharing of traditional knowledge and practices of Basin First Nations and Tribes.**

This objective should be combined with the final part of objective grouping #4. A serious commitment to the aim of this objective would embed sharing traditional knowledge in water withdrawal proposal reviews. This objective could read, “Share traditional knowledge and practices (obtained under the third objective of grouping #4) by including consideration of Native traditional knowledge when undertaking jurisdictional water use approval processes.”

Alternative or additional objectives

In the following section our organizations offer alternative or additional regional water conservation and efficiency objectives that we would like to see included in the final objectives. These proposed objectives could serve as a substitute for the draft objectives or could be combined with suggestions offered above to strengthen the existing objectives.

Jurisdictional water conservation programs should:

- Support implementation of the “Decision-Making Standard” for decisions on diversions by establishing a science-based process for numerically defining the calculation of required return flow. The standard’s acceptable “allowance for Consumptive Use,” a figure sometimes also called “consumptive use co-efficients,” should be numerically defined by major use sector. These allowances or coefficients for any given water use sector should be defined in ranges, reflecting the variation in technical and other requirements within a given sector.
- Use a science-based process to determine which sectors of Great Lakes basin water use would return the greatest value for the dollar invested in conservation. “Value” in this context should be understood in terms of ecosystem protection or improvement and total water withdrawal reduced. Use the results of this information to determine priorities in jurisdictional conservation efforts
- Use a science-based process to prepare a map of the Great Lakes basin indicating degrees of water stress now and projected at intervals in the future. Use the results of this information to determine geographical priorities in jurisdictional conservation efforts.
- Educate the public and water users about the need for water conservation. Any serious education effort must include television advertising that is not limited to public service announcements.
- Ensure that public education and water conservation planning efforts can reach those parts of the population that have less-than-average access to official channels and the Internet
- Be accountable by setting measurable objectives, maximizing public input opportunities, and reporting regularly:
 - 1) Each objective in a jurisdiction’s conservation program should be assessed so that the following question is answered: What difference will progress toward the objective make in terms of environmental protection or improvement?
 - 2) The public should be allowed some form of input at every major stage of program design and implementation, including both priority setting and resource allocation
 - 3) The public should receive reports on progress toward achievement of objectives, preferably at least annually.
- Pool resources with the other basin states and two provinces to:
 - 1) every five years, assess world water conservation programs for usefulness to the basin
 - 2) every five years, assess new water conservation technologies for use in the basin
 - 3) every five years, prepare and maintain long-term (fifty-year) water demand and supply

forecasts for the basin as a whole. These forecasts should include assessment of the impact of population growth, changes in regional economic activity and residential patterns, climate change, and potential effectiveness of water conservation programs

4) every three years report biannually on basinwide water conservation lessons learned

5) obtain basin Native traditional environmental knowledge and practices

- Draw from the regional assessment of world water conservation methods for designing the jurisdictional water conservation programs
- Make use of the regional assessment of new water conservation technologies for deciding which, if any, technologies the jurisdictions should encourage jurisdictional water users to adopt
- Prepare and maintain long-term (fifty-year) water supply and water demand forecasts for each jurisdiction, incorporating useful information from regional forecasting effort
- Every three years, report regionally on combined lessons learned from the jurisdictional water conservation programs
- Incorporate basin Native traditional environmental knowledge and practices into the jurisdictional water conservation program and water withdrawal proposal approval process

**Ohio Great Lakes Compact Advisory Board
Water Conservation Goals and Objectives Committee**

Comments from the Ohio Farm Bureau Federation

The Ohio Farm Bureau Federation (OFBF) would like to thank you for the opportunity to review and submit comments on the Preliminary Draft Ohio Lake Erie Basin Water Conservation Goals and Objectives. The regional (basin-wide) water conservation goals and objectives were developed as a result of many months of hard work by a host of dedicated individuals.

OFBF is the largest voluntary nonprofit agricultural organization in the state of Ohio. Because our members produce virtually every kind of agricultural commodity, OFBF is very interested in the implementation of the Great Lakes-St. Lawrence River Basin Water Resources Compact and the potential impact on Ohio's agricultural industry.

Our policies recognize the value of Ohio's freshwater resources and that protecting Ohio's water basins from withdrawals and diversions to other regions of North America is necessary to maintaining healthy viable ecosystems. It is our belief that Ohio's fresh water resources must be protected, enhanced and conserved for future generations and for the future viability of Ohio's agricultural industry.

We recognize that the preliminary draft water conservation goals and objectives are intended to be broad, overarching concepts that will be used to form the development of the Ohio water conservation goals and objectives, leading to the development of a water conservation program. It is encouraging to see that draft objectives promote jurisdictional flexibility in water management program implementation. OFBF welcomes and encourages approaches that are non-regulatory in structure.

Agricultural water use is different from the other water uses in the Great Lakes Basin. The concepts of seasonal or intermittent water usage along with high use efficiency associated with agricultural irrigation makes it inappropriate to apply a "one size fits all" regulatory solution. The water management system must consider the balance between efficient use of water with the amount of water retained within the basin due to the permeability of open agricultural land.

It is imperative that Great Lakes water policy be based on science and current information. The draft objectives recognize the need for improved monitoring, standardized information collection, enhanced research activities and expanded technology transfer. OFBF agrees with these principals.

Recognizing the need for accurate information collection, Ohio agricultural producers are concerned and cautious about submitting water use data that could be freely available to the general public. Any information gathered should be used for the sole purpose of increasing the knowledge and understanding of Great Lakes water resources not for litigation purposes or to establish a water allocation program. The information submittal process should be transparent but confidentiality of sensitive or proprietary information must be maintained with submitted information not being in the public domain.

Thank you once again for the opportunity to comment on the preliminary draft Water Conservation Goals and Objectives. The broad application of the Great Lakes-St. Lawrence River Basin Water Resources Compact to Great Lakes agriculture will not be a simple task. Seasonal or intermittent water usage along with the high water use efficiency associated with agricultural irrigation makes it challenging. Jurisdictional water management plans must be based on common sense and incorporate a maximum amount of flexibility. Ohio and Great Lakes agriculture cannot be placed at a competitive disadvantage.

Comments/questions for Great Lakes Compact Advisory Board committees

David Beach, GreenCityBlueLake Institute

3/24/09

How will we determine what a sustainable level of water withdrawals will be? What methodology will we use? I assume the methodology will include some measure of ecosystem health. Since Lake Erie is a dynamic ecosystem, we will have to take natural fluctuations into account.

Will we focus on maintaining water levels in the lake, or will we take a broader view of water availability throughout the basin? If the latter, then we should think about strategies for maintaining baseline flows in rivers and preserving wetlands.

How will we consider the place-based issues of water withdrawals? For instance, a large withdrawal can have very different impacts depending on whether it is located on the lake shore or on a stream.

How will we anticipate climate change? Any plan for sustainable use of water should include actions to adapt to the changing climate (which could mean reduced lake levels). Given the uncertainties of the current climate models, planning should be flexible enough to respond to new climate data in the future.

Can we make recommendations for water conservation in buildings? Can we recommend stronger building codes?

How can Ohio's system of water use management be designed to promote sustainable economic development? How can we create a competitive advantage that will encourage companies to move here to take advantage of abundant clean water?

-----Original Message-----

From: kjoyce@blackswamp.org [<mailto:kjoyce@blackswamp.org>]

Sent: Wednesday, March 25, 2009 8:25 AM

To: Advisory Board Comments

Cc: Joyce, Kevin

Subject: Great Lakes Com. Adv. Bd. - Water Cons. Goals & Objectives

I have reviewed the preliminary draft of 3/5/09 and compared it to the state's Compact legislation, Am. H. B. No. 416.

The draft seems to cover comprehensively and to be fully consistent with H.B. 416, with regard to water conservation.

I don't have any changes to suggest.

Kevin Joyce

Black Swamp Conservancy

kjoyce@blackswamp.org

Sent from my Verizon Wireless BlackBerry

-----Original Message-----

From: Kimberly McConville [<mailto:osdakimberly@rrohio.com>]
Sent: Thursday, April 09, 2009 4:40 PM
To: Advisory Board Comments
Subject: Comments on draft documents
To: Sara Lynaugh, OWRC Administrative Assistant
Ohio Department of Natural Resources; Division of Water

From: Kimberly McConville, Executive Director Ohio Soft Drink Association
Advisory Council Member; Representing Bottled Water Industry

Subj: Comments on Draft Proposals

Date: April 9, 2009

Our comments are a supplement to comments submitted by the Coalition for Sustainable Water Management of which the Ohio Soft Drink Association is a member. We concur with all comments submitted by Jennifer Klein on the Coalition's behalf.

Specific comments from our industry's perspective are outlined below. Thank you for the opportunity to comment.

Process for Baseline List

We believe the document is acceptable as drafted. In our review, we focused on consumptive use measurements, and while the potential use of "provisional" in characterizing such measurements could cause concern, we understand that the use of that term pertains to development of the regional database measurements, recognizing that the accuracy of estimation and measuring methods may improve over time, or as new related tools are developed.

Water Conservation Programs

We concur that the programs should be voluntary, in keeping with the legislative intent of Ohio's Compact enactment. We are generally supportive of the items outlined in their document and are already industry leaders in water efficiency.

Michigan Water Withdrawal Assessment Process

We support science-based decision making and permitting as long as it is not used as a political tool to target specific industries (e.g., bottled water). Colleagues experienced with Michigan regulations caution that the permitting process takes more time, costs more money and may limit withdrawals. For example, their regulations require expensive environmental impact investigations on streams flows, etc. even when the well in question is not located near a stream. Sources indicate that Michigan may adopt a modeling tool that will provide a quick screening of impact of potential wells and their proximity to streams, and will dictate how much investigation is required to prove no adverse impact. This may decrease the work required for wells not near water bodies.

Kimberly McConville
Executive Director
Ohio Soft Drink Association

To: Ohio Department of Natural Resources

Subject: Advisory Board Comments on Preliminary Draft---Ohio Lake Erie Basin Water Conservation Goals & Objectives

From: Gary Smith – Greater Cleveland Partnership

Date: April 10, 2009

Comment 1—Conservation and Efficiency Goals and Objectives should explicitly state the voluntary nature of the program OR express the intention of ODNR to seek legislation which would make the programs mandatory. The second draft should make those intentions clear.

Section 4.2 of the Compact (Water Conservation and Efficiency Programs) outlines the general guidelines for implementing water conservation and efficiency programs. Specifically, paragraph 2 states that “*Within two years of the effective date of this Compact, each Party shall develop its own Water conservation and efficiency goals and objectives, and shall develop and implement a Water conservation and efficiency program, **either voluntary or mandatory**, within its jurisdiction based on the party’s goals and objectives*”.

Further, Amended House Bill 416 of the 127th Ohio General Assembly enacted ORC 1522.05 (B)(1) which speaks to the General Assembly’s intent that these programs be voluntary in nature and that “*such voluntary programs shall not include any mandatory requirements*”.

I submit the aforementioned excerpts from the Compact and from the Ohio Revised Code to support my assertion that the Ohio Lake Erie Basin Water Conservation Goals and Objectives be made very clear—that Conservation and Efficiency Programs implemented under the authority of the Compact and the Revised Code reflect the intention of the Ohio General Assembly--**these programs shall be voluntary in nature**. No where in the current draft is this reflected. I respectfully submit it should be.

Nevertheless, in recognition of ORC 1522.05(B)(1), the Goals and Objectives should clearly indicate whether they are designed to develop a voluntary program or whether they are designed to provide input into the legislative process.

Different goals and objectives would apply to a voluntary program versus a document used to provide input into the legislative process. As set forth above, ***mandatory components to Ohio’s conservation program cannot be implemented without legislation***. The Advisory Board should be given the opportunity to provide input into whether there should be any mandatory elements to Ohio’s conservation program. Therefore, a second draft of the Goals and Objectives document should clearly indicate whether it is setting forth the purpose of a voluntary program or whether it is designed to provide input into the legislative process.

Comment 2—I would align myself with other comments that speak to the **need for accountability through the use of frequent cost/benefit analysis of the various goals and objectives**. I think we do a disservice to the program if there is not a reliable mechanism to measure the effectiveness of the goals and objectives. Accountability through these measures would, I think, provide confidence to those being regulated that they are not being inundated

with useless unfunded mandates---but rather provide the notion that the programs are useful, efficient and cost-effective ways to conserve this precious resource.

Comment 3-- In the second draft of the Ohio Lake Erie Basin Water Conservation Goals & Objectives, **ODNR should refine the document to set forth a proposal that includes the specific goals and objectives of Ohio's conservation program.** The document should set forth how the conservation program's goals and objectives are designed to address specific issues in the Lake Erie Basin. By creating such a document the Advisory Board will be in a better position to provide input into the overall objective of Ohio's program.

The Regional Objectives are purposely designed to be very broad in nature- applicable to the entire Region. As set forth in the Background section of the *Great Lakes – St. Lawrence River Basin Water Conservation and Efficiency Objectives*, the Regional Objectives:

"will be used to inform the State and Provincial water conservation and efficiency goals and objectives. These goals and objectives will in turn shape State and Provincial water conservation programs that will **be more specific in nature.**"

Rather than simply reiterating goals and objectives that were developed at the regional level, the Advisory Board should strive to shape Ohio specific goals and objectives. To perform this task adequately, the Ohio goals and objectives should take into account the unique aspects of the Lake Erie basin. The goals and objectives should be tailored to addressing issues in the basin that flow from Lake Erie's unique characteristics. Consideration of Lake Erie's unique aspects could include the following:

- ? Lake Erie is the shallowest of all the Great Lakes;
- ? Lake Erie has the lowest volume of the Great Lakes
- ? Effect of storm events on water levels- wind can significantly adjust water levels in the eastern and western ends of Lake Erie
- ? Lake Erie enjoys a larger fish population relative to other Great Lakes

In addition, the goals and objective should include recognition of specific challenges to the health of Lake Erie as well as specific solutions to those challenges. These could include:

- ? Recognizing significant development has occurred on the shores of Lake Erie, the conservation program could encourage adoption of green infrastructure by communities in the basin to increase water availability;
- ? Recognizing Ohio's unique talents, the conservation program could promote Ohio based centers of innovation on water conservation;
- ? Identifying the unique goals and objectives of an Ohio based monitoring or reporting program

The purpose of the goals and objectives is to establish the overall purpose of Ohio's water conservation program. The purpose includes fostering behavior that will benefit Lake Erie

taking into account it has unique qualities and a unique ecosystem comparative to the other Great Lakes.

-----Original Message-----

From: Kevin Joyce [<mailto:kjoyce@blackswamp.org>]

Sent: Friday, April 10, 2009 2:48 PM

To: Advisory Board Comments

Subject: Great Lakes Com. Adv. Bd. - Water Cons. Goals & Objectives

I'm writing to supplement my earlier comments about the preliminary draft distributed at our meeting on March 5th.

The "Regional Water Conservation Goals" and "Regional Water Conservation Objectives" can be used as a starting point for the establishment of Ohio's goals and objectives. In fact, they might serve as Ohio's overarching water conservation and efficiency objectives. However, in order for Ohio to have an effective water conservation and efficiency program, it must develop much more specific goals.

The acronym "SMART" is often used to identify the elements needed for effective goals: specific, measurable, achievable but challenging, realistic and time-bound. There are no statements fitting that description in the regional goals and objectives. It seems highly unlikely that our water conservation and efficiency program can succeed without having "SMART" goals in place.

In fact, the Compact requires that "each party will annually assess its programs in meeting its goals and objectives" It would be virtually impossible to assess progress, in any meaningful way, against statements as vague as those in the basin-wide goals and objectives.

Kevin Joyce
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Conserving and protecting natural and agricultural lands in northwest Ohio for the benefit of future generations

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March 27, 2009

Via Electronic Mail

Sara Lynaugh
OWRC Administrative Assistant
Ohio Department of Natural Resources
Division of Water
2045 Morris Road, Building B-2
Columbus, Ohio 43229-6693
advisoryboardcomments@odnr.state.oh.us

Re Comments of the Ohio Utility Group Concerning Ohio's Implementation of The Great Lakes Compact

Dear Ms. Lynaugh:

The following comments are being submitted to the Ohio Department of Natural Resources ("ODNR") and the Advisory Board by the Environmental Committee and Water Task Force of the Ohio Utility Group and the following member companies:

Buckeye Power Company
Columbus Southern Power Company (a unit of AEP)
The Dayton Power and Light Company
Duke Energy Ohio, Inc.
Ohio Power Company (a unit of AEP)
Ohio Valley Electric Corporation

(collectively, "the Utilities").

The Utilities welcome the opportunity to submit these comments to ODNR and the Advisory Board and would appreciate the opportunity to discuss the issues raised herein with an appropriate member of ODNR's staff in the near future.

The Utilities operate large base-load power plants that are situated near and along the Ohio River. These power plants are responsible for generating a substantial portion of the electricity utilized by consumers, industry and government entities located in Central and Southern Ohio. In order to continuously generate the large amounts of electricity required to meet these needs, these facilities withdraw and discharge significant volumes of water from and to the Ohio River and other waters located in the Ohio River basin on a continuous basis.

Existing state law requires regulated parties to obtain a permit from ODNR before causing significant new diversions or consumptive uses of waters of the state. See

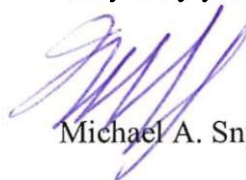
R.C. §1501.32 and R.C. §1501.33. However, most of the Utilities' facilities are exempt from these permitting requirements. See R.C. §1501.33(B).

In early March 2009, the Advisory Board conducted its first public meeting and released proposals for public comment addressing ODNR's general plans for establishing a regulatory baseline for measuring future withdrawals from the Lake Erie basin and promoting water conservation and efficiency as required by the Great Lakes Compact ("Compact"). During this meeting, Director Logan made remarks suggesting that ODNR intends to apply forthcoming regulatory programs and rules that ODNR promulgates to implement the requirements of the Compact in the Lake Erie basin to the Ohio River basin. The Utilities were surprised to learn of ODNR's desire to use the Compact in this manner. The Utilities are opposed to any effort to further regulate the use, diversion or withdrawal of water from the Ohio River basin because the Utilities and other Ohio River stakeholders have not had any role in Ohio's development and adoption of the Compact and they are not represented on the Advisory Board. Moreover, neither the Compact nor the Ohio legislation that the General Assembly enacted to adopt and approve the Compact authorizes ODNR to apply these programs outside of the Lake Erie basin. Furthermore, the Utilities believe that it would be unreasonable, arbitrary and capricious for ODNR to regulate the use of water in these two very different basins in an identical manner without carefully considering whether such regulation is necessary in the Ohio River basin.

If after careful study, ODNR believes that additional regulation of withdrawals, diversions, and consumptive uses of water from the Ohio River basin is necessary to protect Ohio's natural resources, it should engage in a separate, independent and open regulatory process that recognizes that there are fundamental differences between the two basins. Such an initiative should involve representation of various Ohio River stakeholders at its earliest stages including, but not limited to, representatives of the Utilities, industries, and municipalities situated near and along the Ohio River that are most likely to be impacted. Eight Great Lakes states negotiated the terms of the Compact after engaging in more than four years of talks involving business, scientific, governmental and environmental stakeholders in order to protect the waters of the Great Lakes from depletion. A similar undertaking involving all of the states that border the Ohio River would be necessary to ensure that any regulations that may be imposed are fair and effective, and do not create a competitive disadvantage for the State of Ohio and Ohio River stakeholder vis-à-vis the other Ohio River states.

As it stands, the Utilities are opposed to any effort by ODNR to apply any regulatory program that it promulgates to implement the Compact that results in regulation of the diversion, transfer, or use of water in the Ohio River basin. The Utilities request that ODNR clarify its intentions in this regard and welcome the opportunity to start a dialogue with ODNR on this issue.

Very truly yours,



Michael A. Snyder

MAS/jmp

cc: Michael E. Born
Ohio Utility Group – Environmental Committee
Ohio Utility Group – Water Task Force