

<http://www.dec.state.ny.us/website/greatlakes/publiccommentsummary.html>

**Public Comments Submitted to the State of New York for Annex 2001 - A Supplementary Agreement to the Great Lakes Charter of 1985**

On December 14, 2000 the Council of Great Lakes Governors, acting on behalf of the eight Great Lakes States' Governors and two Provinces' Premiers, released a draft Annex 2001, a supplementary agreement to the Great Lakes Charter of 1985. After allowing the general public time to become familiar with the document, New York Governor George E. Pataki sponsored two public meetings in order to obtain comments on the proposed Annex 2001. The meetings were held February 21, 2001 in Buffalo and February 22, 2001 in Oswego. The meetings were open forums designed to maximize the exchange of information and opinions, related to the draft document, among various public and private organizations and citizens within the State of New York.

In all, about 80 citizens participated in the Buffalo and Oswego meetings. An additional 10 participated in a February 28, 2001 meeting in Albany for selected state-wide organizations that could represent a diverse range of business, scientific research, municipal, and environmental interests. Written comments were also received from 28 individuals or organizations.

Overall, the commenters believed the Annex was a good first draft but required greater emphasis on resource protection and clarification of specific terms and concepts, such as the definition of "withdrawal," the *de minimis* threshold, the health and safety exemption, and cumulative impact provisions. Industry groups did not oppose the overall goal of the Annex, but are very skeptical that this document will help achieve that goal. There was widespread agreement that New York State ought to take an aggressive position to protect the water and ecological quality of the Great Lakes basin because of its geographic location downstream in the basin (where the impacts of water diversions would be magnified), and because the future economic viability of the region is intimately tied to the Great Lake's freshwater resources.

**The following is a summary of the major comments received.**

1. The majority of citizens believed the Annex should ban all new water diversions from the Great Lakes basin, or at least impose a moratorium on them until their impacts can be better determined and understood. Specifically:

- This Annex appears to promote public consumption of the water resource and may stimulate an increase in diversion/withdrawal proposals.
- The Governors should be willing to go to court to defend a ban/ moratorium.
- The ban is necessary to get the support of the Premiers of Ontario and Quebec.
- The Annex should address why the International Joint Commission's recommendation to ban water removals has not been considered.
- There is not enough information about the long-term effects of diversions on the basin to allow for diversions. The effects of global climate change, urban sprawl, and changing lake levels are of special concern because they can be significant and cannot be accurately forecasted.
- The full range of impacts from diversions should be determined before they are allowed.
- What evidence is there to show how existing diversions have/are harming the environment?
- A basin-wide management information system is needed that focuses decision-making on data quality, consistent interpretation, and water conservation.
- The volume and complexity of information required to support the decision-making process and criteria established in the Annex will necessitate an enormous funding commitment by the Federal governments of both countries.

- The Annex should allow for some *de minimis* withdrawals ( ex. < 500,000 g/d).
- 1 mgd is actually an insignificant amount of water from the basin.

4. Future deliberations on Annex 2001 and the water diversion issue should:

- include First Nations;
- include the public and/or a citizen representative;
- include the St. Lawrence River and Finger Lakes regions;
- include the Canadian federal government, not just the Provinces of Ontario and Quebec;
- include greater public education and outreach;
- include industry representation and provide greater notification when documents are available for review; and
- not be conducted behind closed doors.

5. Other specific comments include:

- Water conservation efforts should be more strongly encouraged by the Annex.
- Does all water returned to the basin have to be "cleaner?"
- If environmental benefit projects are required for all withdrawals it represents an unrealistic burden on industry.
- The "reasonable and appropriate" clause should be removed from the Annex.
- Terms like "reasonable and appropriate conservation measures," "enhancement of ecosystem," and "enhancement and restoration" need definition.
- The Provinces should have the same veto power as the Great Lakes Governors.
- The issue of water as a commodity, its relation to international trade law, and its valuation process needs to be addressed.
- The legal distinction between water in its natural state and water as a product or commodity needs further legal analysis since this document will become an international agreement and international agreements do not consider water in its natural state as a commodity.
- The monitoring of unimproved in-basin discharges from approved withdrawals will have a significant impact on state and federal water discharge permitting (ex. SPDES & NPDES) and staff resource capabilities and budgets.
- The basin-wide focus is good but provisions need to allow for unique watershed conditions/situations.
- The Annex should include a discussion on how ecological impacts will be addressed and the use of scientific/ecological information to determine the full network of effects.
- Support for the Annex should include a commitment of funding to the research community in order to develop the scientific information needed for determining individual and cumulative environmental impacts from withdrawals.