

GREAT LAKES WATER MANAGEMENT CHRONOLOGY KEY EVENTS

1848-1985

1. **1848-1899.** Chicago River reversed (“Illinois Diversion”) diverting water from Lake Michigan down the Chicago Sanitary and Ship Canal and eventually to the Mississippi River to reverse flow of untreated domestic sewage into Lake Michigan and Chicago’s drinking water intakes.
2. **1899.** Initial lawsuit filed before the U.S. Supreme Court by the States of Wisconsin, (et al.) challenging the Illinois Diversion.
3. **1909.** International Boundary Waters Treaty signed between Great Britain (on behalf the Dominion of Canada) and the United States. Created the International Joint Commission (IJC), made up of three U.S. Commissioners (appointed by the President and confirmed by the Senate) and three Canadian Commissioners (appointed by the Prime Minister) charged with responsibility for arbitrating disputes involving diversions and construction projects that affect the level and flow of boundary waters (does not include tributary or groundwater).
4. **1939-1943.** Water begins to be diverted into Lake Superior from the Long Lac and Ogoki watersheds (Ontario) in the amount of 5580 cubic feet per second (3.6 billion gallons per day) for hydropower generation to support Allied armament manufacturing for WWII.
5. **1940-1950’s.** The IJC establishes the Water Control Boards for St. Mary’s River, Niagara River, and Lake Ontario-St. Lawrence River, charged with implementing water level and outflow control plans for run-of-river diversions to meet needs of hydropower and commercial navigation.)
6. **1967.** Initial U.S. Supreme Court Consent Decree entered into regarding the Illinois Diversion, limiting the amount of the Diversion to 3,200 cubic feet per second (2.06 billion gallons per day). The Consent Decree also charges the U.S. Army Corps of Engineers with operations/monitoring/maintenance of diversions structure and water flow, and State of Illinois with implementation of water use permitting and conservation programs.
7. **1980.** U.S. Supreme Court Consent Decree regarding the Illinois Diversion amended. Diversion remains limited to 3,200 cubic feet per second.
8. **1981.** The Powder River Coal Company proposes to build a \$2.1 billion coal slurry pipeline to the Great Lakes to bring western low-sulfur coal to the mid-west. The proposal includes a fresh water line to Gillette, Wyoming for feed for the coal slurry line. For the proposal to go forward, the company must obtain authority for eminent domain from the Federal government. The Federal

government does not give the company eminent domain, and therefore the project does not go forward.

9. **1982.** The U.S. Army Corps of Engineers performs a study on the possibility of diverting Great Lakes Water to recharge the Ogallala Aquifer, which stretches from Wyoming to Texas. After the study is completed, the U.S. Army Corps of Engineers refuses to allow the proposed diversion to go forward.

1985-1998

1. **1985.** In response to the 1982 Wyoming coal slurry proposal, the Ogallala Aquifer regeneration study and other “Grand Proposals” to divert Great Lakes water, the Great Lakes Charter of 1985 is signed by all ten Great Lakes Governors and Premiers. The Charter—a good faith agreement—commits the Governors and Premiers to:
 - a. Give prior notice to and consult with each other before approving any new or increased diversions or consumptive uses over 5 million gallons per day average over any 30-day period;
 - b. Manage and regulate all new withdrawals that resulted in a new or increased diversion or consumptive use of Great Lakes water over 2 million gallons per day average over any 30-day period; and,
 - c. Collect and share comparable information on all Great Lakes water withdrawals of 100,000 gallons per day average over any 30-day period.
2. **1986.** Two versions of the Water Resources Development Act of 1986 (WRDA) are passed by the U.S. House and the Senate. The 1986 WRDA is a large omnibus bill that, among other things, authorizes for construction and/or study 270 U.S. Army Corps of Engineers’ projects. Congress inserts a provision (Section 1109) that prohibits all new diversions of Great Lakes water out of the Great Lakes *States* unless approval is given by each of the Great Lakes Governors. In addition, Section 1109 would “...prohibit any Federal agency from undertaking any studies that would involve the transfer of Great Lakes water for any purpose for use outside the Great Lakes basin,” effectively preventing any future studies similar to the 1982 Ogallala Aquifer recharge study.

The House and Senate versions of this bill are sent to a House and Senate conference committee. The committee is charged with resolving the numerous differences (primarily differing spending authorizations) between the House and Senate versions of the WRDA. During the course of these negotiations, Section 1109 is revised to prohibit all new diversions out of the Great Lakes *basin* unless approval is given by each of the Great Lakes Governors.

The conference committee’s version of the WRDA bill, including Section 1109, is passed by both chambers and signed by the President. The legislation does not include any standard or process to be used when reviewing proposals to divert Great Lakes water, nor any process for appealing any such decision.

3. **1987.** Water Resources Management Committee (created by the Great Lakes Charter of 1985) releases report entitled “Managing the Waters of the Great Lakes Basin.”
4. **1990.** The Village of Pleasant Prairie, Wisconsin seeks and receives approval from the Great Lakes Governors to divert 3.2 million gallons per day from Lake Michigan for public water supply purposes.
5. **1992.** The City of Lowell, Indiana is denied approval for a diversion of 2 million gallons per day for public water supply purposes. The proposal is vetoed by the Michigan Governor John Engler.
6. **1995.** The Great Lakes Charter’s prior notice and consultation procedure for in-basin withdrawals exceeding 5 million gallons per day consumptive use is initiated when Michigan’s Mud-Creek Irrigation District proposes to use Great Lakes water that will result in a consumptive loss of between 5-6 million gallons per day. Despite objections raised by Indiana Governor Evan Bayh and the Canadian Premiers of Ontario and Québec, the proposal goes forward.
7. **1996.** Memorandum of Understanding signed by the parties to the the U.S. Supreme Court Consent Decree to update the manner in which the Illinois Diversion is measured.
8. **1998.** The City of Akron, Ohio seeks and receives approval from the Great Lakes Governors to divert up to 4.8 million gallons per day from Lake Erie for public water supply purposes. Approval by all Governors stipulates requirement to achieve no net loss by returning an amount of water to the Great Lakes basin equal to the amount of water withdrawn from the Great Lakes basin.

1998-Present

1. **1998.** The Nova Group (Ontario) requests and receives a permit from the Ontario Ministry of the Environment to ship (in bulk containers) approximately 160 million gallons per year of raw water from Lake Superior for the purpose of selling the water “in Asia.” Because the amount of water withdrawn is less than 5 million gallons per day average over any 30-day period, and because the proposal is in Canada, neither the Great Lakes Charter’s prior notice and consultation requirements nor the WRDA are applicable.

The permit is rescinded in response to strong objections raised by the Great Lakes Governors and the general public.

2. **February, 1999.** The governments of the United States and Canada jointly request that the IJC study the effects of bulk removals and diversions from boundary waters such as the Great Lakes, and provide recommendations to the two federal governments as they deem appropriate.

3. **May, 1999.** At the request of the Great Lakes Governors, the Great Lakes Protection Fund provides the Governors with a commissioned legal report (the “Lochhead Report”) describing the current legal framework governing management of the Great Lakes waters. The report also highlights the potential legal vulnerabilities of the current framework, including the lack of a standard to be used when the Governors exercise their WRDA authority over diversion proposals. The Lochhead report also provides recommendations for addressing those vulnerabilities.
4. **October, 1999.** At their Leadership Summit in Cleveland, Ohio, the Great Lakes Governors and Premiers release a joint statement committing to update the legal framework governing Great Lakes water management to ensure that authority for managing the Great Lakes remains with the Great Lakes Governors and Premiers. In their statement they specifically pledged to:
 - a. Develop a new agreement that will bind the States and Provinces more closely to collectively manage the Great Lakes.
 - b. Develop a new common standard against which water projects will be reviewed.
 - c. Secure funds to develop a better base of Great Lakes water use data.

A Water Management Working Group appointed by the Great Lakes Governors and Premiers begins developing recommendations to meet the pledges made by the Governors and Premiers.

5. **February, 2000.** The IJC releases its report entitled Protection of the Waters of the Great Lakes: Final Report to the Governments of Canada and the United States. Among their many recommendations, the IJC recommends that “...[T]he Great Lakes States and Ontario and Quebec, in carrying out their responsibilities under the Great Lakes Charter, should develop...the standards and the procedures...that would be used to make decisions concerning removals or major new or increased consumptive uses.”
6. **September, 2000.** The U.S. Congress passes an amendment to Section 1109 of the 1986 WRDA, adding a prohibition of *exports* of Great Lakes water unless approval is given by all eight Great Lakes Governors.

In addition, the amendment “...encourage[s] the Great Lakes States, in consultation with the Provinces of Ontario and Quebec, to develop and implement a mechanism that provides a common conservation standard embodying the principles of water conservation and resource improvement for making decisions concerning the withdrawal and use of water from the Great Lakes Basin.”

7. **December, 2000.** The Governors and Premiers Water Management Working Group releases for a 60-day public comment period a draft Annex to the Great Lakes Charter of 1985. Substantive revisions are made to the Annex pursuant to the public comments received.

8. **June 18, 2001.** In Niagara Falls, New York, the Great Lakes Governors and Premiers together sign the Great Lakes Charter Annex of 2001 (“Annex 2001”). Included in its six directives, Annex 2001:
 - a. Commits the Great Lakes Governors and Premiers to the creation of new, more binding agreements for collectively managing the Great Lakes within three years;
 - b. Includes the parameters for the creation of a new standard for reviewing proposals to withdraw Great Lakes water;
 - c. Calls for the development of a broad-based public participation program.

In addition, at the meeting Ohio Governor Bob Taft is elected the new Chair of the Council of Great Lakes Governors, replacing Pennsylvania Governor Tom Ridge who had served as Chair since 1998.

9. **September, 2001.** Each of the Great Lakes Governors and Premiers appoint representatives to a Water Management Working Group (“Working Group”) to develop recommendations for meeting the commitments contained in Annex 2001. As Council Chair Governor Bob Taft’s representative, Sam Speck, Director of the Ohio Department of Natural Resources, is appointed Chair of the Working Group.
10. **November, 2001.** At an organizational Working Group meeting, the Working Group is organized into Sub-committees that are charged with developing recommendations for the Governors and Premiers that will meet the commitments made in Annex 2001. The Sub-committees include:
 - a. Compact Structure Sub-committee, charged with developing a draft, legally binding Compact between the States.
 - b. Decision Making Standard Sub-committee, charged with developing the Standard to be used when reviewing and deciding whether to approve proposals to withdraw Great Lakes Water.
 - c. International/Inter-provincial Agreement(s) Sub-committee, charged with developing one or more good-faith agreements between the States and Provinces.

Additional teams made up of representatives of the Governors and Premiers are organized during the course of the Working Group’s deliberations. These teams include a Tribes/First Nations Team, a Legal Team, and a Drafting Team. In addition, a list of regional stakeholders is identified by the Working Group to participate on an Advisory Committee that will provide feedback and input on the recommendations developed by the Working Group.

11. **March, 2002.** The first joint meeting of the Working Group and the Advisory Committee is held in Washington, D.C.

12. ***March, 2002—July, 2004.*** Regular conference calls and meetings of the Working Group and its Sub-committees are held to develop draft agreements to implement the commitments contained in Annex 2001.
13. ***July 19, 2004.*** The first draft of the Annex 2001 Implementing Agreements are released, initiating a 90-day public comment period. Meetings are also held with the Advisory Committee to solicit their input on the drafts. Two regional public meetings are held in Chicago, Illinois and Toronto, Ontario. In addition, over 30 public meetings are held by the individual States and Provinces. Over 10,000 public comments are received.

In addition, Wisconsin Governor Jim Doyle is elected Co-Chair of the Council of Great Lakes Governors.

14. ***Fall, 2004-Spring, 2005.*** The Working Group revises the draft Annex 2001 Implementing Agreements in response to the public comments received.
15. ***June 30, 2005.*** Revised draft Annex 2001 Implementing Agreements are released for a 60-day public comment period.
16. ***Fall, 2005.*** The Annex 2001 Implementing Agreements are revised and finalized by the Working Group in preparation for the Governors' and Premiers' review and consideration.
17. ***December 13, 2005.*** The Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement (“Agreement”) is signed by all ten Great Lakes Governors and Premiers. In addition, the Great Lakes—St. Lawrence River Basin Water Resources Compact is endorsed by the eight Great Lakes Governors who urge its passage by the eight Great Lakes legislature, and who also urge that the U.S. Congress provide its consent to the compact.