

WATER USE ADVISORY COUNCIL
JULY 22, 2019
1:00 p.m.-4:00 p.m.
Constitution Hall
Great Lakes Conference Room, 6th Floor, South Tower
DRAFT MINUTES

1. Welcome and Introductions

- Review Agenda
- Other Housekeeping Items
- Dina Klemans, EGLE--transition
 - Allow two-minute time limit per person for public comment.

Water Use Advisory Council (WUAC) Members Attending:

James Clift, Deputy Director, EGLE
Margaret Bettenhausen, Attorney General
Joe Wallace, Ottawa County Road Commission (filling in for Pat Staskiewicz)
Laura Campbell, Michigan Farm Bureau
Brian Eggers, AKT Peerless
Mike Gallagher, Michigan Lake Stewardship Associations
Doug Needham, Michigan Aggregates Association
Mike Frederick (filling in for Buddy Sebastian), Michigan Ground Water Association
Steve Kohler, Kalamazoo River Watershed Council
Tom Zimnicki, Michigan Environmental Council
Jim Johnson, MDARD
Jason Walther, Walther Farms (Potato Growers)
John Yellich, Michigan Geological Survey
Kyle Rorah, Ducks Unlimited
Taylor Ridderbusch, Michigan Trout Unlimited (filling in for Bryan Burroughs)
Dave Hamilton, The Nature Conservancy
Tammy Newcomb, DNR
Tom Frazier, Michigan Townships Association
Scott DeBoe, Consumers Energy
Christine Alexander, EGLE

Council Members Absent:

Charlie Scott, Michigan Golf Course Owners Association
Frank Ettawageshik, United Tribes of Michigan
Jim Nicholas, Nicholas-h20

Non-Council Members Attending:

Aaron Rice, Prairie River Water Users Group

Rachel Proctor, Consumers Energy

Dave Lusch, MSU (ret)

Pat Norris, MSU

Laura Young, MSU

Troy Zorn, MDNR Fisheries

Emily Finnell, EGLE

Abby Eaton, MDARD

Ralph Haefner, USGS

Tony Des Chenes, Michigan Legislative Consultants/Potato Growers of MI

Jim Milne, EGLE

Nathaniel Shuff, EGLE

Clay Joupperi, EGLE

Andy LeBaron, EGLE

Sherry Thelen, EGLE

2. Overview and purpose of the WUAC

- Purpose: get organized
- Long history of water use program.
 - Build on history but establish a new council.
 - New council not bound by past council directions.
- This council must operate according to the Open Meetings Act (OMA).
- Council established in Part 328, Aquifer Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), by 2018 PA 509.
- Appointments made by the Governor, Senate Majority Leader, Speaker of the House, and the EGLE Director.
- Membership list handed out.
- Charge to Council is broad
 - Council should provide recommendations to the Quality of Life Agencies and the Legislature regarding Part 327.
 - Must report every two years; first report due on December 28, 2020.
- Questions: organizational support?

3. Council Operations and Support

- Handout on how previous council agreed to operate (2012).
- First discussion items: leadership, chairs, co-chairs, committees, alternates, etc., How will group vote, etc.
 - Previous versions of the WUAC never voted on anything but did reach decisions by consensus.
 - The OMA requires that decisions be made when a quorum is present (quorum for this group is nine voting council members).
 - Important to maintain continuity with alternates present.
 - Council members should identify their alternates.

- Are members limited to only one representative as an alternate?
- Previous versions of the WUAC had an expectation that alternates and members would communicate
 - No revisiting decisions made if a member missed a meeting or if council member states that alternate didn't vote as agreed to by the council member
- Will send an e-mail to members and alternates, if desired, to provide their contact information.
- Alternates can vote.

Challenge:

- Learning curve for new members.
- Loss of institutional knowledge with the departure of several former council members, but fortunately several of those former members are also present.
- Volunteer for co-chair along with Bryan Burroughs (absent), and Laura Campbell.
- Typically, a tri-chair in the past, two co-chairs with a department piece. Trout Unlimited alternate stated that Bryan volunteered to co-chair.
- Motion made to make Laura Campbell, Bryan Burroughs, and Brian Eggers Tri-chairs.
 - Question regarding how a Tri-chair set-up works.
 - There was an executive committee.
 - Would pre-meet to discuss next meeting agenda.
 - Decisions by consensus in the past.
- There was no follow up discussion, so decision making remains by consensus.
- Consensus decision reached to have Laura Campbell, Bryan Burroughs, and Brian Eggers Council serve as Tri-chairs.
 - Dina offered handing over running the meeting to the new Tri-chairs, but they declined for the remainder of this meeting.
- Consensus based decision-making suggested.
- OMA requires a majority vote, when voting is required; consensus under most circumstances.
- There may be instances where majority would decide.
- Opportunity for those who weren't in agreement to voice their disagreement in the record.
- Also discussed that EGLE should be part of an Executive Committee for this Council (17 members and six ex officio).
 - Christine Alexander would lead this group.
 - Volunteers to be on the Executive Committee: Dave Hamilton, Tom Zimmnicki, James Clift.
 - Discussed Pat Staskiewicz being part of committee.
 - He would help if needed.
 - What is expected of committee, term of committee?
- Will revisit at 18-month report due date and see how membership feels regarding the Tri-Chair and Executive Committee leadership.

- Consensus reached to have the Council Tri-Chairs, Dave Hamilton, Tom Zimnicki, James Clift, and Christine Alexander serve as the Executive Committee.
- Subcommittees are not subject to the OMA if there's not a quorum present
 - If multiple subcommittees gather and constitute a quorum, or if one subcommittee constitutes a quorum, they are subject to the OMA).
 - Questions regarding specific requirements of the OMA.
 - Would usually meet/call ahead of time to discuss agenda. Had good support for committee, heavy lifting with some subcommittee meetings (Technical Underpinnings, Water Conservation).
- Trend has been for councils to get a state e-mail address for official council business.
 - This council is subject to FOIA; makes FOIA reporting easier.
 - Official members would get state e-mail addresses and forward e-mails to alternates.
 - Suggestion is to forward e-mails to your personal e-mail to keep them organized and separated.

Support:

- Hope was that we could supply contract support like last council.
- Would the council see a need for a professional facilitator to get through rough topics?
 - No consensus for needing a facilitator at this point.
- What kind of support is council looking for? Like last council.
 - Subcommittee members wrote the recommendations in the previous council's final report; Laura Young, MSU IWR, edited the entire report; and gathered everyone's information for the submittals.
 - Help with drafting a report and providing for meeting logistics.
- Minimize Quality of Life agency staff's involvement in the day-to-day work of the council.

Budget for this?

- 2018 PA 509 has no funding associated with it.
- Funding appropriated to EGLE but was tied to activities not associated with the council (e.g., Bedrock Pass).
- In the past, the Joyce Foundation provided grant funding for Laura Young to provide support for the Council.
 - Can we seek a similar funding option?
 - Possible for a member organization to seek a grant.

4. Selection of leadership as determined
5. Issues of focus and work plan
 - Subcommittee—Report due in 18 months
 - Set up subcommittees according to issues
 - Identify top three priorities of the council
 - Notecards handed out

A. Information to consider

i. Progress update: 2014 WUAC Recommendations and to do list

Jim Milne discussed Recommendation Matrix from the December 12, 2014 Final Report

- MSU proposal for a pilot project to edit the NHDH stream linework to eliminate non-perennial stream reaches; funding is allocated but need grant agreement
 - (i) EGLE invest money to fill data gaps. JFA with USGS to install and operate stream gages and collect miscellaneous stream flow measurements to support water use programs. What about recommendation completion status in the matrix? Jim's interpretation was that it's underway but not completed. Technical Underpinnings (TU) 4.1. WRD procedure 049 on how staff conducts index flow reviews was finalized in January 2019.

- (ii) TU 6.1. Develop criteria for data analysis for new well. Not complete but making progress (DNR, MDARD, EGLE). Co-funded project in Cass County which is a three-year study that will produce groundwater models in five sub-watersheds. USGS study that's under USGS internal review for two sub-watersheds in Montcalm County. Nestle also collecting data in Mecosta and Osceola Counties. If TU 6.1 is not complete, would council still provide recommendations? There may be instances where council would like EGLE to do additional work.

- (iii) Water Users (WU) 1.1-1.2, Unreported LQW Initiative. Recognizing that the Water Withdrawal Assessment Tool's (WWAT) initial stream index flow estimate on October 1, 2008, included depletions for any existing LQWs. Identified 161 previously unregistered withdrawals to be considered grandfathered in and treated as baseline capacity. Two ineligible LQWs (i.e., after 10/1/2008) were treated as new withdrawals that could be authorized after-the-fact since there was sufficient stream flow available in the affected sub-watersheds. Will there be a final report? Just a final report of the numbers.

- (iv) Issues left for a Future Council sheet (pp.112-114 in December 2014 WUAC final report). Half-max rule. How tool treats proposed depletion; doesn't deplete neighboring watersheds that don't meet at least half of the maximum depletion for any adjacent watershed. The streamflow depletions are reapportioned among the home and adjacent watersheds that do meet the half-max rule.

- (v) John Yellich. Well logs, aerial photos show evidence of pumping. Percentage of unreported LQWs still out there? Not sure. Because of 2018 amendments, EGLE doesn't have time to continue the Unreported LQW Initiative. Any unregistered LQWs that are discovered in the future will be addressed on a case-by-case basis. WUAU staff try to match up LQW registration, well logs, and water use reporting records in affected watersheds when they review SSRs, alternative analyses, or permit applications. Is there a breakdown of 161 previously unregistered LQWs by water use sector? Virtually all agricultural.

ii. Downstream Accounting Project—Troy Zorn

Recapped from the December 2018 meeting.

Question regarding a slide showing multiple watersheds in ARI. Do we have dozens that would kick in legal process of Part 327? No, this slide shows watersheds that would be in Zone D (ARI) based strictly on cumulative downstream depletion

accounting. If you just add cumulative withdrawals, indicates follow-up needed. Stream depletions being seen. Do we have data? Question regarding Cass County. Some of Water Management Areas are at 0 gpm available; others are in the negative (i.e., depleted beyond the point where an ARI is likely). Purpose of presentation is to point out that cumulative downstream depletion tracking may create some issues. Report has recommendations for this group.

Further investigation of this issue is warranted.
Share presentation with WUAC.

iii. Proposed Michigan Hydrologic Framework—Dave Hamilton
Share presentation with WUAC.

iv. Great Lakes Compact Council Update—James Clift
Emily went to a meeting of the Compact Council and the Regional Body on James's behalf. Made some edits on report and preparing for public comment. Will be share with council members and tribes. 45-day review process. Shared initial version with Compact Staff. Will share other member councils' drafts.

Five- year science strategy review. Also review of regional water conservation goals. Post Waukesha (WI)—reviewing procedures for review for large withdrawals from the basin. Grant Trigger is no longer on Compact Council; James is the representative now.

B. Members' Input--priorities

- Data Collection—7
 - Inland lake recommendation; staff gauging on lakes; volunteer stream flow measurement
 - WWAT Improvements—6
 - (lumped wetlands and lakes in the tool, editing WWAT and NHDH tool. Update geology data in the tool)
 - Downstream Accounting/Return Flows—6
 - MI Hydrologic Framework—3
 - Improve SSRs and Alternative Analyses (2018 amendment)—3
 - Improve Water Use Reporting QA/QC—3
 - Support Water User Groups—1
 - Implement Past Recommendations—1
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- Discussed the need for an understanding of data collection
 - Monitoring and tracking water usage
 - Procedure on stream classifications/temperature classifications.
 - This will evolve as we move forward. Thought is to pick two or three low hanging fruit and to let people begin work.
 - Comment that these items refer to quantity of water; but nothing about the quality of water. Explained quantity versus quality.
 - Suggested to think about what the council wants to report first, in order to develop committees, etc.
 - Discussed Downstream Accounting Subcommittee—

- Troy Zorn, David Hamilton, Gary Wheelan, Howard Reeves, Jim Milne, Andy LeBaron, Dana Infante, Kyle Herreman (MSU) Bryan Burroughs, Laura Campbell. Troy will initiate next call.
- 7 of 69 previous recommendations completed fall into these categories.
 - Bryan felt there was more that we could do to present cost to legislators. Agreement on this.
 - Thought is that new report includes update for 2014 report.
 - Separate subcommittee include timeline and financial analysis. This council should look at this.
- Should a smaller group think about this (2014 report)?
 - This council may be able to take smaller bites at this.
 - John Yellich will send an e-mail to see who would like to be involved?
 - Is e-mailing the whole group acceptable?
- Any elaboration on Water Use Reporting QA/QC.
- What are EGLE's concerns:
 - At this time, EGLE wants to hear from the Council; EGLE will present its concerns to council at the next meeting.

6. Other Business

No other business to discuss.

7. Public Comments

- Dave Lusch would be happy to serve council as technical underpinnings group.
- Clarification of Act allows Council to have non-members assist. This would be very beneficial for the council to continue this tradition.
- Dina routed the sign-in sheets for completion.

8. Action Items Review

- Send email to Council and ask for their alternates, and contact information.
- Share information from presentations.
 - Progress Update
 - Downstream Accounting Project
 - Proposed Michigan Hydrologic Framework
- Provide "WAUC 101" links to Council Members.
- Ask for Committee Volunteers for:
 - Data Collection
 - WWAT Improvements
 - Downstream Accounting
 - technical experts should engage in these discussions
- Send Meeting Dates/Locations

9. 2019 Meeting Schedule

- Mid to late October for the next meeting.
 - Recommended setting up meetings for 2019 year; set 2020 meetings later.
 - Recommendation for a minimum of quarterly, maybe every other month.
 - Tuesday, October 15, 2019 –1:00-4:00 — Constitution Hall—ConCon A & B Conference Rooms
 - Tuesday, December 10, 2019—1:00-4:00--TBD
- Suggested to offer a “WUAC 101” meeting for perspective for new members.
 - Possibly schedule a separate meeting or informal Webcast (for those that would have to travel) so it could be shared.
 - Dr. Lusch has a series available; provide links for the Council.
- Maybe Monday or Friday meetings for 2020.

10. Meeting Adjourned