# Water Use Advisory Council (WUAC) Meeting

Hosted by the Department of Environment, Great Lakes, and Energy (EGLE)

**Tuesday, February 8, 2022**
**1:00 p.m.- 4:00 p.m.**
Con Con Conference Room
South Atrium, Constitution Hall
525 West Allegan
Lansing, MI 48933

Remote Option Available Via Teams
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**AGENDA**

1. Welcome

   Laura Campbell, Co-Chair, Farm Bureau, welcomed members and guests and shared the logistics for participation in the meeting. She noted she would be sharing the Chair role with fellow Chairs Burroughs and Eggers.

2. Roll Call

   Campbell took roll call attendance of members and/or alternates.

   **WUAC Members/Alternates Present at Constitution Hall:**
   Abby Eaton, Department of Agriculture and Rural Development (MDARD)
   Christine Alexander, EGLE
   Dave Hamilton, The Nature Conservancy Retired
   Doug Needham, Michigan Aggregates Association
   Laura Campbell, Michigan Farm Bureau
   Megan Tinsley, Michigan Environmental Council
   Pat Staskiewicz, Michigan Section American Water Works Association

   A quorum was not physically present therefore the WUAC could not take any official actions requiring a vote during this meeting.

   **WUAC Members/Alternates Present via Teams:**
   Ben Tirrell, Michigan Farm Bureau
   Brian Eggers, AKT Peerless
   Bryan Burroughs, Michigan Trout Unlimited
   Buddy Sebastian, Michigan Ground Water Association
   Clyde Dugan, Michigan Section American Water Works Association
   Frank Ettawageshik, United Tribes of Michigan
   James Clift, Deputy Director, EGLE
   Jim Nicholas, Nicholas-H2O

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John Yellich, Michigan Geological Survey
Kelly Turner, Michigan Agricultural Irrigators
Mike Gallagher, Michigan Lake Stewardship Associations
Rachel Proctor, Jackson Consumers Energy
Steve Kohler, Kalamazoo River Watershed Council
Tom Frazier, Michigan Townships Association

**WUAC Members/Alternates Absent:**
Charlie Scott, Michigan Golf Course Owners Association-no
Grenetta Thomassey, Tip of the Mitt Watershed Council
Jason Geer, Michigan Chamber of Commerce
Jason Walther, Michigan Agricultural Irrigators
Jim Johnson-Michigan Department of Agriculture and Rural Development (MDARD)
Kyle Rorah, Ducks Unlimited
Margaret Bettenhausen, Michigan Attorney General
Rich Bowman, The Nature Conservancy
Sue Hanf, Michigan Aggregates Association
Tammy Newcomb, Michigan Department of Natural Resources (MDNR)

**Non-members present:**
Adam Zwickle
Alyssa Olson
Andy LeBaron, EGLE
Austen York, EGLE
Caroline Liethen
Christine Spitzley, OHM Advisors
Christopher Gothberg, EGLE
Dave Lusch, Michigan State University (MSU) Retired
Emily Finnell, EGLE
Hannah Arnett, EGLE
Jacob Sauter
Jeremiah Asher, MSU
Jim Milne, EGLE
Joel Henry, Golder
John Esch, EGLE
Lena Pappas, EGLE
Michael Frederick, MGWA
Ralph Haefner, USGS
Ross Helmer, EGLE
Ryan Blazic, EGLE
Sherry Thelen
Simon Belisle, EGLE
Teresa Seidel, EGLE
Todd Feenstra, Tritium
Troy Zorn
Val Vail Shirey

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3. Approval of Agenda-Roll Call Vote

Campbell noted that due to a lack of a quorum, the agenda cannot be officially approved. There were no comments and the agenda stood as presented.

4. Approval of Minutes-Roll Call Vote

Campbell again noted that without a quorum there will be no approval of the December 14, 2021, meeting minutes. There were no comments at this time.

5. Public Comment (3 Minute Limit)

There were no comments at this time.

***(At this time, Co-Chair Burroughs assumed role of meeting Chair.)***

6. Committee Chairs Reports

**A. Data Collection Committee**

Burroughs reported the Committee has not met for several months but are currently scheduling 2022 meeting dates. Past tasks included:

a. Assessing data collection and use standards/documentation
b. Lakes ARI assessment platforms, Wisconsin's work, and possible paths for Michigan
c. Assessing needs for implementing past recommendations, and Committee involvement in implementation, if funding is acquired.

The Committee's future work includes:

d. Develop priorities for work and recommendations for the 2022 Report
e. Replan workflow for existing/previous topics and recruit help towards them

If potential appropriations happen the Committee will have a lot of work ahead to implement funded tasks.

**B. Models Committee**

Hamilton said the Committee will use their time today to discuss downstream accounting, an important topic, and a 2014 Report recommendation. Withdrawals are not currently showing any withdrawals beyond the Water Management Area. Troy Zorn, DNR, developed the fish response curves which are at the heart of the methodology for downstream accounting. Hamilton said Zorn will share his work and then Hamilton will provide two examples.

Zorn acknowledged his co-authors and their roles and then shared key definitions watershed and catchment definitions. He shared an illustrative presentation that included possible solutions and methods and the comparative results of different accounting systems. He noted challenges to the field documentation of withdrawal effects.

In summary he shared the following:

- It has been demonstrated that cumulative withdrawals and return flows can be readily incorporated into the WWAP.
    - It is technically feasible.
- Main upstream withdrawals are largely not addressed for large river systems.
    - This was illustrated in the Muskegon River example.
- This information can help fill a key knowledge gap.
    - Cumulative withdrawal information can also aid in identifying areas for further examination.
- The Workgroup's charge has been accomplished and further consideration of the issue is warranted.

Campbell ask for clarification on water withdrawals that put a watershed in Zone D which is not allowed. Hamilton replied that if this methodology was applied this is what it would say. Nicholas shared that the increases of annual run off does not mean an increase in Index Flow. He also noted the time period was from 1971 to 2000. If gauges were used the data could go back up to 70 years. This regression equation was based on that time. However, for a gauge analysis the entire available period of record is used.

Hamilton shared an illustrative presentation of case studies of the Kalamazoo River and St. Joseph River watersheds. Hamilton explained the methodology for the Kalamazoo River and then shared illustrated maps to further explain how it works. He next shared downstream accounting results of the St. Joseph River at the Indiana River as a further example.

Hamilton then asked the WUAC what should be their Committee's next steps? Where do they go with the study? Should the Committee pursue more? What information would they like to see? Zorn noted Hamilton's works shows slight increases in index flow over time v. considerable increases in index flows shown in his study. Hamilton attributed it to being extended into a wetter period versus Zorn's work which looked at a specific 20-year period.

Needham commended the speakers for presenting this technical information so well. Campbell believes a logical next step is to determine how to design field experiments to measure impacts. A study to capture the missing information that can now be validated through the model and show impacts. Burroughs shared he represents a group with concerns about this and that eventually we need to refine understanding. The statute is intended to prevent ARI's. But if it takes another decade, we are not preventing cumulative impact from occurring. In the meantime, we should not be adding WMA's to the ARI list. The WUAC needs to understand how to implement something sooner.

Nicholas asked how will this work if the WMA becomes a subwatershed with all the subwatersheds above it? He questioned logistically how this would work. Hamilton agreed the scale change would be significant. Clift asked what is next and agreed with Hamilton that creating a list of what is needed next to better understand issue will be helpful.

The Committee will meet soon to talk about their priorities for the rest of the year.

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**C. New Topics Committee**

Staskiewicz reported the Committee met last month. They reviewed two topics, one Finnell will discuss in her report. The second topic was a proposal presentation by Jerimiah Asher, Assistant Director at the Institute for Water Research at Michigan State University. The proposal considers changes in land management practices to increase infiltration rates. Originally a market based approached was proposed and is still being evaluated. The idea is to find ways to change land use to provide solution for those with no other options. If any members are interested, they can review the document and watch Asher's presentation on YouTube. In the meantime, the Committee recommends Asher and his teamwork with Models Committee to review the appropriateness of the model that was used and the legality of the proposed trading concept.

Hamilton believes what Asher is proposing is an innovative approach and it would be worth a conceptual discussion by the WUAC before more technical work is done. Campbell and Asher have discussed potential concerns. Asher will modify and share some of the issues and will share these revisions with the group.

Staskiewicz would like the New Topics Committee to resurrect the preventative measures guidance. Burroughs said it is contained in the original WUAC report and it is a legal avenue for an applicant to use and work through with EGLE. Finnell provided this link to the 2009 Report in the Teams chat https://www.michigan.gov/egle/0,9429,7-135-3313_3684_64633-305354--,00.html.

**D. Conservation and Efficiency Committee**

Finnell provided the update for the Conservation and Efficiency Committee. The Committee meets the first Thursday of each month at 9 a.m. Anyone interested in joining is encouraged to contact Finnell or Turner. The Committee has met twice this year and their meetings have focused on the Dows Fellows Report that was shared with the WUAC this morning. Finnell shared the Dow Fellows findings and next steps:

- Develop water stewardship statewide outreach program
- Strengthen Public Private Partnerships between state and utilities to promote existing water energy savings programs
- Strengthen partnerships with research institutions to advance water conservation through research and technologies
- Develop metrics for water energy savings resulting from water infrastructure improvements
- Use community based participatory processes for scenario planning with water users to support sustainable water use

Committee goals include finalizing their 2022 Work Plan and developing a process to prioritize topics for potential 2022 Committee recommendations to WUAC. The Committee plans to continue to invite speakers to increase knowledge and address information gaps**.**

She also reminded the WUAC of the upcoming Joint Aquatic Sciences Meeting, May 14-20, 2022, in Grand Rapids and thanked members of the WUAC who submitted abstracts.

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She provided an update on the Draft Overview of Water Use Program and FAQs about Water Withdrawals and Water User Committee Document and noted edits/comments are due by March 1, 2022.

Campbell shared she thinks it is a good opportunity to cross references other documents under construction by other partners and to help explain the law/legislature. Staskiewicz said he thinks was well done and shows in the final product. The next step after full WUAC review is to start dissemination. Please send edits or comments to Finnell's email.

Finnell also discussed the development of the Water User Committee User's Manual and Case Study Integrated Assessment Project Grant Award. An award of $225,000 from the Michigan Great Lakes Protection Fund will officially be announced next week. A $125,000 was also awarded to the Michigan Sea Grant from NOAA. This is a 2-year project that will run from February 1, 2022, – January 31, 2024, and will be run by Dr. Adam Zwickle, Michigan State University.

Finnell introduced Zwickle who gave a brief overview of the project "Building Capacity for Collaborative Governance through a Participatory Modeling Approach". Zwickle introduced his team members Jeremiah Asher, Maria Claudia Lopez, Laura Schmitt Olabisi, Glenn O'Neil and Brockton Feltman. He shared the project questions and goals which include:

1. What are the current barriers associated with the convening of a WUC?
2. What is needed to overcome these barriers?
3. Once convened:
    a. what information, tools, and strategies does a WUC need to reach an agreement for sustainable collective water use,
    b. what is the best process for using these resources to reach an agreement?
4. Communicate this information in a broadly accessible WUC guide
5. Pilot the effectiveness of this guide by convening 2-3 pilot WUCs in a participatory modeling format

Zwickle also shared the Project Overview/Timeline:

- Water user survey – *early summer 2022*
- Focus groups – *fall 2022*
- Development of WUC guide – *fall 2022-summer 2023*
- Participatory Case studies – *summer-fall 2023*

Zwickle's team is seeking a diverse group of stakeholders to provide input, expertise, and perspectives. Tasks will include feedback before and after data collection, participation in participatory modeling focus groups, iterative feedback on guide drafts and input into case study site selection criteria and recruitment. WUAC members are encouraged to contact Zwickle if interest in participating.

**E. Implementation Committee**

Needham noted the Committee has been reviewing what has what has been requested/suggested in the past versus what is being currently moving forward. The Committee met January 18 and discussed next steps including the next WUAC Report which

is due December 31, 2022. The Committee wants to look backward at the 2014 WUAC Report recommendations that were not included in the 2020 WUAC Report and capture them in the 2022 Report. The Committee asks that all the committees look at these recommendations and evaluate their status. The spreadsheet containing all these recommendations will be resent to the full WUAC. The committees are asked to review again and see what needs to be addressed and/or moved forward. The Committee wants to identify what is being worked on from the 2020 Report, capture past, present and future accomplishments and include responsibility and action items in the 2022 Report. Performance metrics of tasks put on EGLE staff and improvements to overall system should also be captured. Ideally funding announcements will be made soon and can be pushed out to various tasks. The question of what the report will look like and how it should be compiled was also discussed. Eaton suggested the Committee consider the fact that several members are no longer with this group and are not here to put those recommendations forward and she is unclear on exactly what the Committee is seeking. Needham replied they are trying to capture progress on recommendations on items on the list, funding opportunities, etc. and prioritize needs.

7. <u>2022 WUAC Report Update: Content, Logistics and Timeline</u>
The 2022 WUAC Report is due to the legislature at the end of the year. The goal is to have the final draft report ready to share at December 2022 meeting. In order to reach consensus in time to complete the Report, informational presentations are anticipated to be held in August, September, and October. Final edits and consensus will need to be completed in November. Campbell noted the need to return to in person meetings in order to meet quorums per the Open Meetings Act. Quorums will be required to support the decisions needed to complete the report.

***(At this time, Co-Chair Eggers assumed role of meeting Chair.)***

8. <u>EGLE Update</u>

Milne provided a personnel update for the Water Use Assessment Unit. Austen York started on January 10 as the WUAU's fourth Site Specific Review (SSR) Geologist. Austen received his M.S. from Western Michigan University. Jill Van Dyke is on medical leave indefinitely. Lena Pappas will be doing all EGLE groundwater model reviews in the interim. Any questions on projects that Jill was working on should be directed to Milne for the time being.

WUAU is taking over technical reviews in support of resource permit applications that were formerly done by WRD's Hydrologic Studies Unit. WUAU SSR staff will be reviewing hydrogeological studies. Lena will be doing groundwater model reviews. The primary point of contact for resource permit applications will still be the WRD permitting staff.

Milne shared there were 329 compliance communications which include after the fact registrations, missing pump information requests, revised registrations, and installation verification requests. He also shared there were 29 violations notices which include unregistered wells and wells installed and/or operated differently than authorized. This number includes second violation notices as well. He noted there were seven complaints which include water level drops and new irrigation systems which may or may not be authorized. If multiple complaints were made for the same operation, it was only counted once.

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Nat Shuff has taken over pre-screening reviews for new or increased public water supply LQWs for EGLE's Drinking Water & Environmental Health Division. The pre-screening reviews are similar to Part 327 SSRs. The WUAU provides suggestions to DWEHD for additional information or withdrawal modifications. Part 327 permits are required for new or increased LQWs > 2,000,000 gallons per day (2 MGD). One permit has been issued.

Between July 9 and December 31, 2021, there were 161 WWAT registrations and 117 SSR registrations. In total, 117 SSRs were authorized, two were denied and eleven were retracted by the applicant. Another 13 were still pending when this data was queried.

The average number of days to complete an SSR was 10.6. 53% of the SSRs were completed within the 10-business day statutory deadline. The primary reason for this decline in the SSR timeliness metrics was the 23 SSRs that were originally incomplete applications under the Unreported LQW Initiative, which were then evaluated as new LQWs. All but four of these SSRs ended up being denied. In turn, they delayed the processing of an additional four SSRs that were received after these 23 SSRs.

Milne then shared a slide with a top graph that showed the cumulative trend in the average number of days to complete an SSR and a bottom graph showing the cumulative trend in the percentage of SSRs completed within 10 business days.

Next Milne shared a table showing current Zone D WMAs. The WUAU recently added to this list an unnamed watershed, WMA 12305, due to an accounting error made in 2015, which was recently caught and corrected. EGLE will be reviewing the WMA to verify if any adjustments can be made.

Milne's final slide was a map showing the locations of the depleted WMAs with legend boxes providing additional details about why each WMA is depleted and the next steps EGLE is taking to address the depletions. Milne explained each legend box as indicated on the map.

Hamilton asked if the WUAU team has taken on more responsibility for hydrogeologic study reviews? Milne confirmed the WUAU has taken on additional tasks. He is working to create a new position for an additional modeler. They are also working with other EGLE divisions to develop in house groundwater modeling training curriculum in order to build inhouse capabilities. They will also continue to recruit externally.

Frazier asked for more details about the single 327 permit that was issued. LeBaron reported it was a temporary construction dewatering withdrawal.

Needham asked about streamflow gauges. To determine if Zone D is correct Milne replied that depending on the WMA, additional stream flow data are collected using stream gages and/or miscellaneous stream flow measurements to ground truth the WMA's depletion status. EGLE also uses stream gage and miscellaneous stream flow measurements, when appropriate, to revise index flow values. Note that some WMAs are currently under the influence of high lake levels. New evidence and/or other information (e.g., resolving pending violations, amended registrations) may cause EGLE raise it out of Zone D.

Campbell recalled a previous report that after 2018 of Alternative Site review process and she believed four applications had been received and EGLE denied those. She questioned if any

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others been received. Milne responded that none have been received. He further noted that of those four, the first two were ineligible because they were over 1 Million Gallons per Day. The third was administratively incomplete and closed. The third applicant resubmitted, and the fourth attempt went the full 25 days but ended up being denied because there was not enough flow and there were issues with their model.

Yellich stated additional stream gauges are needed right away so we can move forward immediately in improving our knowledge.

9. Future
    a. Meeting Dates
       The Executive Committee met on January 25 and determined the WUAC will maintain their current schedule meeting the second Tuesday of the month from 1 -4 pm. The Committee hopes for a return to in-person attendance to support a quorum by the June 2022 meeting. The 2020 meeting invitations will be sent later this week. Lusch noted the need to consider budget implications pending expected new funding and be sure to align these new resources with the work items in the Report. Campbell said the Implementation Committee has this issue in mind as the work and planning in 2022 moves forward.

    b. Formats
       Meeting formats will be based on COVID rules as applicable.

    c. Quorum
       There will need to be a push for meeting quorums as needed for decision points especially as related to the compilation of the 2022 WUAC Report to the legislature.

10. Open Comments (3 Minute Limit)
    There were no comments.

11. Motion to Adjourn

    There being no further business the meeting was adjourned. At 3:34 p.m.

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