

Water Use Advisory Council (WUAC) Meeting

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

Tuesday, August 9, 2022

1:00 p.m.- 4:00 p.m.

Con Con Conference Rooms A and B, South Atrium, Constitution Hall
525 West Allegan, Lansing, MI 48933

Remote Option Available Via Teams

[Click here to join the meeting](#)

Or call in (audio only)

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Phone Conference ID: 194 697 488#

AGENDA

WUAC Members/Alternates Present at Constitution Hall:

Abigail Eaton, Department of Agriculture and Rural Development (MDARD)
Ben Tirrell, Michigan Farm Bureau
Christine Alexander, EGLE
Doug Needham, Michigan Aggregates Association
Jim Nicholas, Nicholas-H2O
Laura Campbell, Michigan Farm Bureau
Megan Tinsley, Michigan Environmental Council
Mike Gallagher, Michigan Lake Stewardship Associations
Pat Staskiewicz, Michigan Section American Water Works Association
Rachel Proctor, Jackson Consumers Energy

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:

Bryan Burroughs, Michigan Trout Unlimited
Buddy Sebastian, Michigan Ground Water Association
Dave Hamilton, The Nature Conservancy Retired
Frank Ettawageshik, United Tribes of Michigan
James Clift, Deputy Director, EGLE
Jay Wesley, Michigan Department of Natural Resources
Kelly Turner, Michigan Agricultural Irrigators
Margaret Bettenhausen, Michigan Attorney General
Steve Kohler, Kalamazoo River Watershed Council
Tom Frazier, Michigan Townships Association

WUAC Members/Alternates Absent:

Brian Eggers, AKT Peerless
Charlie Scott, Michigan Golf Course Owners Association
Clyde Dugan, Michigan Section American Water Works Association
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)
John Yellich, Michigan Geological Survey
Kyle Rorah, Ducks Unlimited
Rich Bowman, The Nature Conservancy
Sue Hanf, Michigan Aggregates Association

Non-members present:

Adam Wygant, EGLE
Adam Zwickle, MSU
Andy LeBaron, EGLE
Austen York, EGLE
Caroline Liethen
Christine Spitzley, OHM Advisors
Clayton Joupperi, EGLE
Dave Lusch, Michigan State University (MSU) Retired
Emily Finnell, EGLE
Grant Poole
Hannah Arnett, EGLE
Jeremiah Asher, MSU
Jim Milne, EGLE
Joel Henry, Fishbeck
Lena Pappas, EGLE
Michael Frederick, MGWA
Rachel Winters
Ralph Haefner, USGS
Ross Helmer, EGLE
Sherry Thelen, EGLE
Simon Belisle, EGLE
Steve Crider, Consumers Energy
Todd Feenstra, Tritium

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 Chair Burroughs.

2. Roll Call

Campbell asked those in the room to introduce themselves and then read the names of those joining virtually.

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 June 14, 2022, meeting minutes. There were no comments at this time.

5. Public Comment (3 Minute Limit)

There were no public comments.

6. Legislative/Budget Update

Clift reported they have met multiple times internally and with Council members to discuss future distributions and potential requests for proposals (RFP's). Exploring whether existing contracts can be amended versus entering into entirely new contracts. Discussions with other units on allocating the Geological Survey monies and to make sure all the old Wellogic information is moved to the new system. There is an agreement with Michigan Department of Health and Human Services (MDHHS) to enter all the new wells into the system for the next three years using MDHHS funding. Clift noted things are going well and there should be more information by the September 1 Implementation Committee meeting and a report to the full WUAC on September 13. Clift shared the Michigan Geologic Survey was allocated \$3 million for 2023 and a promise of ongoing annual funding. Milne reminded the Data Collection Committee Chairs the 2020 WUAC Report had a recommendation to extend the current USGS stream gage network out through September 30, 2024. Water Use Assessment staff has created a proposal for adding additional new gages but in the interim they need to confer with Haefner and his staff about their capabilities and take proposal back to the Data Collection Committee. Haefner understands it to be funding for USGS only, but USGS is willing to accept other verified records with appropriate quality assurance. Lusch asked Clift if any of the contracting entities that will be releasing RFP's have engaged with Department of Technology, Management and Budget. Clift could not confirm at this time. Lusch volunteered to assist in moving recommendations he authored forward.

7. WUAC member terms, expiring December 2022

Per the 2018 legislation, Council member terms can be renewed when they expire after four years. Members will need to contact those who appointed them to request reappointment. If a member will not be continuing, then their replacement will need to be identified and appointed. Staskiewicz requested list of staff contacts for appointers. Campbell said she will send the current member roster with service dates. Milne provided information on appointment and expiration dates. Campbell will seek clarification on exact term expirations. It was noted that elections will likely change who is making the appointments. Nicholas believes his appointment letter contains his expiration date as well.

8. New Technical Advisor application

Campbell noted Dr. Younsuk Dong with Michigan State University cannot be officially approved as a new technical advisor to the WUAC without a quorum. Tinsley asked if the WUAC has had other technical advisors. Campbell listed the current advisors which include Dave Lusch, Joel Henry, Todd Feenstra, and Jeremiah Asher. Anyone can submit an application to the Executive Council.

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

9. Committee Chairs Reports

A. Data Collection Committee

Burroughs reported the Committee has not met since the last WUAC meeting. They continue to discuss what can be accomplished for the 2022 WUAC Report. They are working

on the timing of the implementation of past recommendations including the stream gage network and identifying tools for targeted investment for the inland lake issue. Burroughs believes there will be two recommendations for the upcoming 2022 WUAC Report.

B. Models Committee

Nicholas reminded the WUAC they were tasked with providing EGLE input on aquifer performance guidelines. A group convened preCOVID and provided documented feedback to EGLE. This document was recently revisited by Hamilton, Milne, Pappas, and Nicholas who reviewed document which is now ready for feedback from the Models Committee and anyone else who would like to provide input.

C. New Topics Committee

Staskiewicz reported the Committee has not met since the last WUAC meeting. Most of the “new” topics have been taken up by other committees. He asked about status of the Michigan water law and use Frequently Asked Question’s (FAQ) document and if it is ready for distribution. Finnell stated the Water Use Assessment Unit is working to update with additional FAQ’s and when complete it will be posted on the EGLE website and the Office of the Great Lakes’ page. He asked for the FAQ’s to also be distributed to the WUAC. Finnell has also given Dr. Zwickle and his team this information for their work. Preventative measures are another potential topic, but it will likely be delayed until 2023.

D. Conservation and Efficiency Committee Implementation Committee

Finnell reported the Committee continues to meet monthly and continue work on 2020 recommendations and new funding. Anyone is welcome to attend these meetings.

Regarding Recommendation 1. Advance Michigan’s Water Conservation and Efficiency Efforts through State Climate, Energy, and Water Infrastructure Initiatives, the Committee has discussed potential for funding for review and update of water sector best management practices (BMPs) with focus on how climate migration/climate change may impact water sectors and how they are planning to mitigate and adapt. The Office of the Great Lakes (OGL) anticipates issuing a Request for Proposal (RFP) funded by the Michigan Great Lakes Protection Fund to match the \$50k provided by WUAC funding. The OGL collaborated with an interagency workgroup to develop an RFP to fund development of a Great Lakes Education and Outreach Program on Water Stewardship. The RFP for an anticipated \$300,000 project is projected for release in September 2022.

Finnell reported regarding Recommendation 2. Ag Efficiency, an EGLE contract with Michigan State University (MSU) was identified as a potential mechanism to move funding to MSU. MSU Extension is currently waiting for funding decisions.

The Committee is considering the 2022 WUAC Report recommendations. They have received comments from a WUAC co-chair about draft recommendation for ag irrigation efficiency and further comments from Committee members. These comments will be addressed in a revised recommendation to be submitted to WUAC ahead of the September meeting.

Committee members have also discussed water conservation Best Management Plans (BMP) with the Michigan Aquaculture Association. The Committee concluded that aquaculture would be best included in a BMP review to gather more information on practices in Michigan, in the region and nationally.

The Committee expects to submit one recommendation for the 2022 WUAC Report.

Staskiewicz is working on establishing a Michigan Section American Water Works Association task force to update the Recommended Conservation Measures for Public Water Supplies.

Campbell offered the Committee assistance with any needed connections and logistics as they move forward with their work with the aquaculture producers.

E. Implementation Committee

Needham said the next Committee meeting is scheduled for September 1 from 9-11 a.m. The meeting will be used to discuss steps to move forward with the WUAC recommendations receiving state funding. The Committee hopes to have more information about potential contract administration from EGLE at that time.

10. 2022 WUAC Report Update: Content, Logistics and Timeline

Campbell said the purpose of the 2022 WUAC Report is to provide legislators a clear understanding the WUAC's goals, work to date and any new recommendations for 2022. She asked each committee to provide written description of what has been done for implementation as well as new recommendations for the Implementation Committee's review. Campbell hopes to have rough draft by October 1 in time to share at the October 11 WUAC meeting. Final discussions and voting on recommendations will be held during the November meeting. December will be set aside for finishing edits. Quorums will be required to support the decisions needed to complete the Report.

11. EGLE Update

Milne announced the highlights from the annual legislative report for Part 327 will be presented at the September WUAC meeting to allow more time for internal agency review. Dave Hamilton requested that the program metrics be presented on a calendar year basis, instead of the July-July program year to allow for comparisons over the entire irrigation season. The program metrics will continue to be presented as calendar year to date metrics with the annual metrics presented at the first council meeting in 2023.

Milne shared there were 103 compliance communications including ten after the fact registrations, nine missing pump information requests, eighty-one revised registrations, and three installation verification requests. There were eleven violation notices which included notices for unregistered wells, and wells installed and/or operated differently than authorized, this number includes second violation notices as well. There were four complaints which included 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.

On slide 24 of the meeting PowerPoint, Milne showed the metrics from January 1, 2022 to July 31, 2022 which showed twelve pre-screening reviews passed. Nat Shuff has taken over doing pre-screening reviews for new or increased public water supply Large Quantity Withdrawals (LQW) for EGLE Drinking Water & Environmental Health Division (DWEHD). The pre-screening reviews are like Part 327 Site Specific Reviews (SSR). The Water Use Assessment Unit (WUAU) provides suggestions to DWEHD for additional information or withdrawal modifications. Part 327 permits are required for new or increased LQWs greater than 2,000,000 gallons per day (2 MGD). Six permits were issued.

Staskiewicz asked how Zone C was approved and if water conservation was required. He would like to follow up with that municipality. LeBaron explained the water conservation requirements for public water supplies are in the Safe Drinking Water Act (SDWA) and administered by the DWEHD, not WRD. He noted that similar to Part 327, the SDWA only requires a water supplier to implement the water conservation measures that they deem to be reasonable; adherence to all water conservation measures is not required. Milne will get back to Staskiewicz about how DWEHD is proceeding with the municipality.

Between January 1, 2022, and July 31, 2022, there were 224 Water Withdrawal Assessment Tool (WWAT) registrations and 88 Site Specific Review (SSR) registrations. Eighty-eight SSRs were authorized, six were denied, ten were retracted by the applicant and another eleven were still pending when this data was queried.

Regarding timeliness metrics, the average number of days to complete an SSR was 11.5. Fifty-three percent of the SSRs were completed within the 10-business day statutory deadline. Slide 28 shows the cumulative trend in the average number of days to complete an SSR. The top graph shows the cumulative trend in the average number of days to complete an SSR. The bottom graph shows the cumulative trend in the percentage of SSRs completed within 10 business days. Per request, the metrics presented are now on a calendar year basis.

The table shared on slide 29 lists the Water Management Areas (WMAs) that are currently in Zone D, the stream classifications, index flow, allowable depletions, and currently available stream flow balances. The allowable depletions column is the product of the index flow and the statutory allowable depletion percentage, which varies based on the stream flow classification low end of (4% for cold-transitional streams up to 24% for warm streams). The current depletion column on the far right generally does not include depletions from pending SSRs except for WMAs with pending violations.

The map shown on slide 30 marks the locations of the WMAs currently in Zone D with legends indicating the WUAC's response actions. Milne further explained activity on each site on the map. Joint funding agreement with USGS to collect stream flow measurements in addition the miscellaneous stream flow measurements EGLE does. USGS is also installing and operating stream gages for continuous flow measurements. Nicholas asked what happens when stream classifications changes and there is already a withdrawal approval in place and if the approval status changes. Milne explained that a withdrawal that was already approved by the WWAT or SSR is presumed not likely to cause an adverse resource impact. The presumption can be rebutted by a preponderance of evidence that there is or likely will be an adverse resource impact. Sebastian asked about the status of the Dickinson Creek model that Feenstra submitted. Milne reported it is in the queue for Pappas to review. Campbell asked what the MDNR process is for changing classification. Milne replied MDNR Fisheries has made at least two presentations to the Council on their current procedure, in addition they have sent information to the Water Resources Division for review, and they concurred with MDNR's recommendation. Milne asked Wesley to share next steps. Wesley said he can share the approved policy with Council on how they make the recommendation for a stream temperature change. Part two is carefully stepping through the process of the next steps because it is not real clear in current statute. Discussion took place regarding the Natural Resource Commission's role in the process. Burroughs explained the intent when developing the policy and agreed it's become less clear. When the determination is made, Wesley offered to bring this information back to the WUAC at a future meeting.

The EGLE Groundwater Data Warehouse Lean Process Improvement (LPI) review resulted in five recommendations. Standards need to be created for data input, including (but not limited to) facility identifiers, location (facility, well/boring, sample), accuracy, precision, and electronic data deliverables. An outreach plan will be developed for both internal and external stakeholders, including training materials. A phased approach will be pursued that will initially address data input going forward and then including existing data. The LPI team recommended that the data warehouse have the capability of being expanded in phases to include all environmental media (e.g., geology, soils, surface water, sediment, soil vapor), not just groundwater data. The LPI team is very aware of the parallel recommendation in the 2020 Council report to create a master environmental data warehouse. The two efforts need to be, at a minimum, compatible and closely coordinated. A benchmarking survey will be conducted of other states, federal agencies, and other organizations to identify best practices and standards.

The LPI team has been split into four implementation teams: external research, structure, standardization, and training & outreach. The teams are meeting to develop their implementation plans, including identifying deliverables, developing project schedules, and coordinating the efforts between the implementation teams. Milne is on the Standardization and Training & Outreach Teams. There is broad representation across EGLE. Milne will keep the Council updated on the LPI implementation as part of WUAU outreach efforts. He noted it is currently difficult to identify data gaps within EGLE due to silos. He speculated it may be easier to do once the warehouse is complete. Nicolas asked how much funding and personnel will be needed to continue this forward. Burroughs asked what the timeline is to discuss the overlap and coordination with WUAC recommendations. Milne shared leadership plans to issue a request for proposals by September 30 and teams are currently meeting every two weeks. More information and updates are expected at the September WUAC meeting.

Needham initiated a discussion on the SSR response rates and questioned the role staffing plays in changing statistics. Milne said workload fluctuations contribute to the differences in turnaround time. Since June, several requests were able to be done very quickly which helped the timeliness metric. Timeliness trends are leveling off. Needham noted the minutes will show the timeliness trends and asked how the WUAC can help improve this metric in order to meet the ten-day statutory requirement. Milne reported they are working to hire someone to assist with model reviews. Nicholas asked how many SSR's include numerical models. Milne stated very few.

Milne provided an update on the proposed well field for aquaculture in Ohio. A 5.25 MGD withdrawal with drawdown expected to cross into Michigan. EGLE reviewed the first permit application and provided comments to Ohio DNR. When it goes to public notice, they will review the updated information. Milne expects to update the WUAC at the September meeting.

Feenstra said a common question he receives from growers is the timeline on SSR's reviews if additional data is provided and how long it is expected to take. Milne replied it is highly variable depending on how much data and type of data needed. He offered to discuss in further detail after the meeting.

Clayton clarified it is difficult to compare the annual metrics because the metric period has recently been changed. LeBaron added almost all timelines are almost entirely dependent on communications with the applicant. Needham asked if the 10-day deadline should be changed. Milne does not believe it should be changed but it is up to the WUAC to determine if there should be an ask for statutory change.

Turner suggested the WUAC should compare timelines to consistent, specific times of year to provide alignment of comparisons. She also suggested bringing “offline” conversations back online to serve as an education opportunity especially for those who are new. It was suggested informational items could be added as an agenda topic on a future WUAC agendas.

Burroughs asked for more information on the four complaints. Milne answered when someone contacts EGLE alleging violation it is tracked as a complaint. WUAU staff is working to visit complaint sites to increase one on one outreach and to increase field presence.

12. Future

a. Remaining 2022 Meeting Dates

Burroughs noted the remaining 2022 WUAC meeting dates are schedule for:

- September 13 (Tuesday)
- October 11 (Tuesday)
- November 10 (Thursday)
- *December 5 (Monday)*
-

b. Formats

At this time, meetings will continue to be offered in a hybrid format.

c. Quorum

A quorum continues to require nine voting WUAC members attend the meeting in person. This will be required to make the needed decisions to move the 2022 WUAC Report to completion by December 2022.

13. Open Comments (3 Minute Limit)

Feenstra raised questions relating to a SSR they are working on with a client, Oomen Veggies Co. It has a Zone D status. EGLE has collected measurements on the stream and Feenstra’s group redid them in July at the request of the grower. The drain has three different branches: a west branch, a north branch, and an east branch. The west branch was found to be dry at every crossing. All the north branch water was 70 degrees or higher and fed by field tiles on sump pumps. The east branch had no flow. Feenstra summarized his concerns into four questions: 1) How are perennial streams defined? 2) What are we doing with water temps? 3) Do we really want to look at streams with low flow? and 4) How do we work through wells that are 250 deep with streams that are 11,000 feet away? Should the WUAC be involved and how can it be discussed? Turner agreed it is a great topic to bring back for discussion and education to benefit of all. Alexander said this is a good conversation for other EGLE staff to be brought in to share their expertise. EGLE protects the surface waters of the State of Michigan at very low flows and higher temperatures. Hamilton feels some these topics should start in committees and then come to WAUC for presentation.

Alexander following up on 7. regarding WUAC member terms, staff will share who has authority for each appointment to the WUAC membership roster although some affiliations are missing. It was confirmed that Rachel Proctor is with Consumers Energy and clarified that Jason Walther represents agriculture irrigators. Turner is his alternate. Members will need to identify who they are representing and their appointment dates which vary. Members were asked to send their information to Christine Spitzley.

14. Adjourn

There being no further business the meeting adjourned.