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Do the math. Now start listening!

Summit, developers could benefit from water rule changes

By John Bartlett Staff writer

The Great Lakes governors last week issued a framework to manage requests for Great Lakes water in an increasingly thirsty world where water could become a free-trade commodity.

The framework is a proposed amendment to the Great Lakes Charter of 1985 that the governors call "Annex 2001." And while it seeks to prevent massive withdrawals of water from the Great Lakes, the document contains exemptions for certain smaller diversions, raising the concerns of environmental groups and Ontario officials.

The Annex and how water diversions are approved or disapproved in the future could have a direct effect on water availability and growth in Summit Township and other southern suburbs of Erie.

Currently under the federal Water Resources Development Act the governors of the eight Great Lakes states must give unanimous approval to any out-of-basin diversion of Great Lakes water. The Great Lakes Charter, an international agreement between the governors and the premiers of the Canadian Great Lakes provinces, requires "consultations" for the withdrawal of more than 5 million gallons per day.

Those requirements have kept Lake Erie water from flowing south over the ridge to areas in Summit Township and other developing areas outside the Lake Erie watershed.

How the governors and provincial premiers handled requests for Great Lakes water increasingly came under question as a result of free trade agreements and growing demands for water outside the basin, even worldwide.

A pivotal event occurred in 1998 when the NOVA Group proposed taking 2.4 million gallons per day from Lake Superior and exporting it by tanker to Asia. The Ontario government initially granted a permit for the withdrawal, but later canceled it. Opponents feared allowing the export would make Great Lakes water a commodity under the North American Free Trade Agreement and freely available for export.

The Great Lakes governors commissioned a binational legal team to examine the issues. They concluded an outright ban on water exports would likely violate trade laws, and possibly also the commerce clause of the U.S. Constitution.

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However, they determined the governors and premiers had broad authority to regulate withdrawals from the lakes.

The International Joint Commission also took a detailed look at the issues and reached similar conclusions. Limits on withdrawals, including prohibition, could be imposed if based on a scientific, resource-based rationale, were uniform and reflected the use and loss of water within the basin, the IJC said. It called on the governors and premiers to quickly adopt appropriate regulations.

According to a release from the Council of Great Lakes Governors, under the proposed Annex 2001 the governors and the premiers of Ontario and Quebec would:

- Forge a new binding agreement to manage Great Lakes waters.
- Create a new standard requiring an improvement to the water and water-dependent natural resources of the Great Lakes before allowing new or increased water withdrawals.
- Implement a new standard for interim decisions under the Water Resources Development Act.
- Obtain better information so that water is managed rationally.
- Include the premiers in reviewing and consulting on all new proposed diversions, not just those at the trigger levels in the Great Lakes Charter.

However, certain diversions of under 1 million gallons per day within the United States would not be as carefully reviewed and would not require concurrence of the Canadian premiers. The withdrawals also would not have to meet the improvement-of-lake-quality requirements.

The exemption would apply if appropriate and reasonable water conservation measures are taken; it is necessary for the public water supply system to protect public health and safety; and is subject to state approval.

Depending on the interpretation, that could open the floodgates for sending Great Lakes water to thirsty suburbs such as southern Summit Township that are outside the watershed, Great Lakes United's Reg Gilbert said.

"That provision is in there to allow a number of near-basin communities to somewhat more cheaply use Great Lakes water," Gilbert said. "That's the only thing that makes any sense."

The suburbs already have access to the water if they would only return it through their sewage system, he said.

The exemption for those smaller diversions is a concern, Ontario Natural Resources Minister John Snobelen said in a prepared statement.

"We need to make sure that the cumulative results of small-scale diversions are considered," he said. "Ontario continues to support the approach of the International Joint Commission that there be no net loss of water from the basin."

Ontario hopes to work closely with the governors in developing the final language of Annex 2001, Gilbert said.

The Council of Great Lakes Governors welcomes the input of the public and Canadian officials, council spokesman Jeff Edstrom said.



"This is a first step. There is a lot more that needs to be done. The proposed amendment is for public review," Edstrom said.

The full text of Annex 2001, an overview and related information is available on the Council of Great Lakes Governors Website: www.cglg.org. Comments can also be made on the Website; or by fax at (312) 407-0038; or by mail to: Annex 2001 Comments, Council of Great Lakes Governors, 35 E. Wacker Drive, Suite 1850, Chicago, IL 60601.

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