



## WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

Memo No. 12

**TO:** MEMBERS OF THE SUBCOMMITTEE ON WATER CONSERVATION AND BOTTLED WATER OF THE SPECIAL COMMITTEE ON GREAT LAKES WATER RESOURCES COMPACT

**FROM:** John Stolzenberg, Chief of Research Services, and Rachel Letzing, Senior Staff Attorney

**RE:** Drafting Instructions From the Subcommittee on Water Conservation and Bottled Water – Version 3

**DATE:** January 9, 2007 (Revised January 30, 2007)

This Memo lists the drafting instructions provided by your subcommittee at its January 5, 10, and 19, 2007 meetings. The Memo will be revised to include additional drafting instructions developed by the subcommittee at subsequent meetings.

The chart following the outline of the drafting instructions summarizes the assignment by the subcommittee at its January 19, 2007 meeting of the water conservation tiers endorsed by the subcommittee to new or additional diversions and withdrawals in the Great Lakes basin by water utilities. See the outline that follows for specific details of these assignments. In this chart, bold text denotes that water conservation programs are required under the Great Lakes-St. Lawrence River Basin Water Resources Compact's (the "compact") exception standard or decision-making standard. Withdrawals and consumptive uses for which the subcommittee has not yet discussed water conservation programs are identified in the chart in dashed boxes. The abbreviation "MGD" in the chart means "million gallons of water per day." The abbreviation "Thrhld" in the chart refers to the threshold amount of a new or additional withdrawal that will be subject to the decision-making standard in the compact. This threshold amount has not yet been set by the Subcommittee on Regulation of Withdrawals, Consumptive Uses, and Diversions.

The second to last page of the Memo contains the proposed sequence of issues for consideration by the subcommittee that we presented at the subcommittee's January 5 meeting. The organization of these issues has been modified to reflect the subcommittee's discussion of the water conservation framework in the compact at that meeting.

The last page of the Memo contains the flowchart of the water conservation framework in the compact discussed at the subcommittee's January 5 meeting.

### ***DRAFTING INSTRUCTIONS***

- I. State requirements under a statewide water conservation framework.
  - A. Apply the water conservation framework in the basin under the compact.
    1. For purposes of complying with the compact, limit reporting, assessment, and interaction with the council to the Great Lakes basin portion of the state.
    2. Condition reporting and other interaction with the council and other states and provinces on water conservation programs in the Great Lakes basin on the compact becoming effective.
    3. Require agencies administering water conservation programs to tailor program requirements based upon characteristics of regulated water users (i.e., avoid "one size fits all" type regulations).
    4. Require the Department of Natural Resources (DNR), when developing state water conservation and efficiency goals and objectives applicable in the Great Lakes basin, to coordinate that process with the pilot program for establishing these goals and objectives that DNR will be implementing later this year in cooperation with the Council of Great Lakes Governors.
  - B. Specify that DNR shall be the lead agency for implementing the framework. Direct DNR to consult with the Public Service Commission (PSC) and the Department of Commerce in implementing the framework.
  - C. Establish an advisory committee to assist DNR in implementing the framework statewide.
    1. Base the committee composition on the Act 310 Groundwater Advisory Committee; with additional representation of federally recognized American Indian tribes and bands in this state.  
  
*Comment:* Should this committee be permanent or of limited duration, such as operating during development of the initial goals and objectives and initial rule-making? If the subcommittee recommends that this advisory committee be permanent, then it will be labeled a "council."
- II. Water conservation tiers.
  - A. All water users.
    1. Applies statewide (not individually site specific).
    2. Measures managed by state agencies at the state level with uniform approach.

- a. Information and education utilizing state website.
  - b. Plumbing codes.
  - c. Piping standards, etc.
- B. Tier 1 measures.
1. Metering or equivalent.
  2. Costing and pricing (not applicable to self-supply).
  3. Assessment/accounting of loss.
  4. Information and education.
- C. Tier 2 measures.
1. All tier 1 measures.
  2. Water-use audits.
  3. Retrofits.
  4. Pressure management.
  5. Landscape efficiency.
- D. Tier 3 measures.
1. All tier 1 and 2 measures.
  2. Replacements and promotions.
  3. Reuse and recycling.
  4. Water-use regulation.
  5. Integrated resource management.
- E. Define water conservation measures in tiers 1 to 3 based on descriptions of the measures in *Water Conservation Plan Guidelines, Appendix A, Water Conservation Measures*, prepared by the U.S. Environmental Protection Agency (EPA). [Appendix A is posted on the Internet at <http://www.epa.gov/watersense/pubs/guide.htm>.]
- F. Measures in a tier apply to a permit or approval holder. They do not directly apply to customers of water utilities, though a water utility may, as appropriate, work with its customers in implementing particular measures.

III. Water conservation programs for new or increased diversions authorized under the compact.

A. Require an applicant for a diversion under the compact to demonstrate that the applicant:

1. Has engaged in water conservation planning prior to submitting the application that does all of the following:
  - a. Evaluates present and future water uses.
  - b. Sets a baseline for its waters use.
  - c. Evaluated which water conservation measures in tier 2 and measures 2 and 3 in tier 3 are environmentally sound and economically feasible to provide for the conservation of existing water supplies required under proposed is s. 281.343 (4n) (c) 1. d. and (d) 1. in LRB-0058/P1.
  - d. Evaluates which water conservation measures in tier 3 are environmentally sound and economically feasible as part of implementing the proposed diversion under proposed s. 281.343 (4n) (d) 5. in LRB-0058/P1.
2. Has implemented the environmentally sound and economically feasible water conservation measures identified under item III. A.1. c. to provide for the “conservation of existing water supplies.”
3. Commits to implementing the environmentally sound and economically feasible water conservation measures identified under item III. A.1. d.

*Comment:* Should DNR, while reviewing and acting on an application, be authorized to require the implementation of other water conservation measures in the applicable tier if it determines that the additional measures are environmentally sound and economically feasible and are necessary for the applicant to meet other requirements in the exception standard?

Should item III. A. 1. to 3. apply to an application for a diversion to a straddling community of less than 100,000 gallons per day averaged over any 90-day period under proposed s. 283.343 (4n) (a) 1.? These diversions are not subject to the compact's exception standard.

IV. Water conservation programs for new or additional withdrawals in the Great Lakes basin by water utilities.

- A. For all amounts of withdrawals, require the utility to evaluate which water conservation measures in tier 1 are environmentally sound and economically feasible for the utility and to commit to implementing those measures which meet this criterion.

*Comment:* Should the water planning requirements in item III. A. 1. a. and b. apply to a water utility applying for this type of water withdrawal?

Should this item (IV. A.) also apply to other types of public water supplies that are not a utility, e.g., a water supply for a mobile home park?

V. Water conservation programs for new or additional consumptive uses in the Great Lakes basin by water utilities.

A. For a consumptive use greater than a percentage of the utility's annual withdrawal of water specified by DNR, and if that percentage amount exceeds 1 million gallons per day, require the utility to evaluate which water conservation measures in tier 1 are environmentally sound and economically feasible for the utility and to commit to implementing those measures which meet this criterion, if all of the following conditions are met:

1. DNR determines there is a need for the water conservation measures under the applicable portions of the statewide water conservation framework under item I.
2. DNR determines there is an available methodology for determining the consumptive use of water by a water utility.

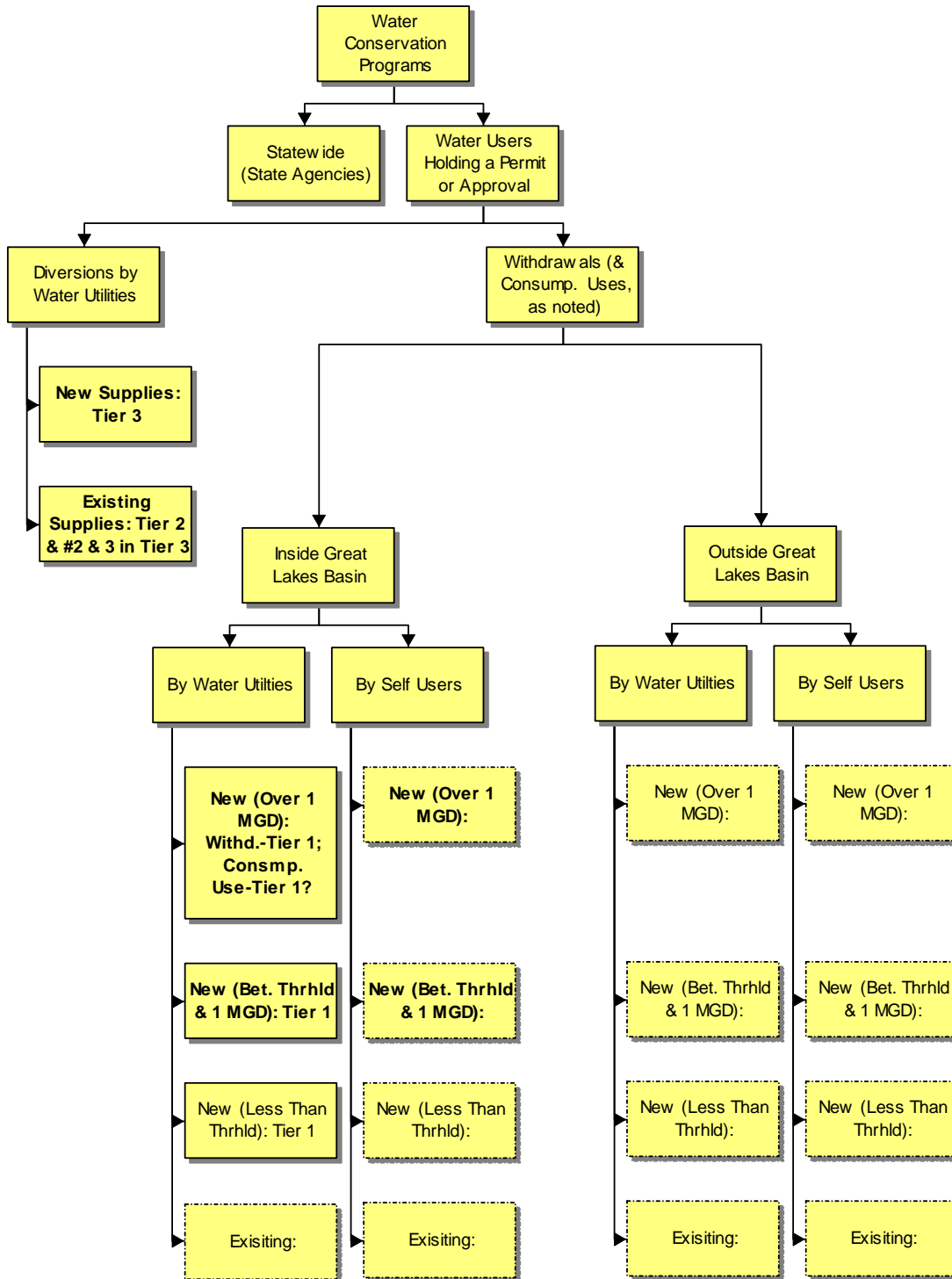
*Comments:* Should the water planning requirements in item III. A. 1. a. and b. apply to a water utility applying for this type of consumptive use?

Should item V. A. apply to smaller amounts of consumptive uses than 1 million gallons per day?

**Assignment of the Water Conservation Tiers to Diversions,  
Withdrawals and Consumptive Uses by the Subcommittee as of January 19, 2007**

**Bold text** = Compact's exception std. or decision making std. applies. **Dashed box** = Not yet discussed by the subcomm.

- See the outline of drafting instructions for details on the application of these assignments.



*Subcommittee on Water Conservation and Bottled Water*

*Proposed Sequence of Issues\**

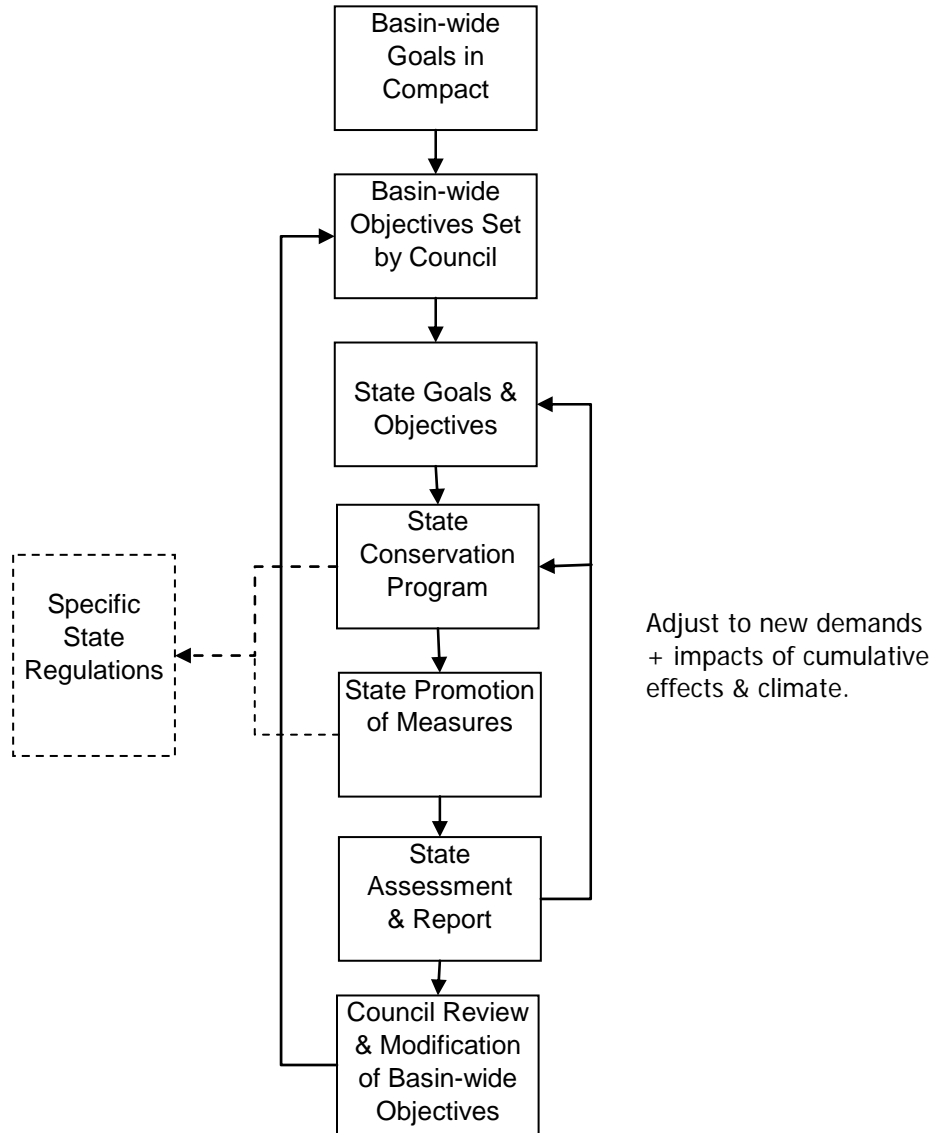
*[Citations to applicable provisions in LRB-0058/P1 in brackets]*

1. State portion of the water conservation framework in the compact.
  - a. State water conservation and efficiency goals and objectives. [s. 281.343 (4b) (b).]
  - b. Development and implementation of state program. [s. 281.343 (4b) (b) and (e).]
  - c. Promotion of “environmentally sound and economically feasible water conservation measures.” [s. 281.343 (4b) (d).]
  - d. State water conservation program annual assessment and report to the council and regional body. [s. 281.343 (4b) (b).]
  - e. Adjustment of water conservation programs. [s. 281.343 (4b) (e).]
2. State water conservation regulations.
  - a. Water conservation programs for new diversions authorized under the compact (straddling communities, intra-basin transfers, and communities within a straddling county), including, where applicable, incorporation of “environmentally sound and economically feasible water conservation measures.” [s. 281.343 (4n) (b) 2. b., and 3. b., (c) 1. d., and (d) 1. and 5.]
  - b. Water conservation programs for new withdrawals and consumptive uses subject to the compact’s decision-making standard, including incorporation of “environmentally sound and economically feasible water conservation measures.” [s. 281.343 (4r) (c).]
  - c. Water conservation programs for other new withdrawals and consumptive uses not subject to the Compact’s decision-making standard. [s. 281.343 (4b) (e).]
  - d. Water conservation programs for existing withdrawals, consumptive uses and diversions. [s. 281.343 (4b) (e).]
3. Bottled water.
4. Other issues.

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\* Includes applicable definitions in the compact.

*Water Conservation Framework in the Compact*  
*Based on Proposed s. 281.343 (4b) in LRB-0058/P1*



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