

Even if the decision on specific water diversion criteria is made only by a subcommittee of states with U.S. veto power, it seems clear from this review of Michigan and Canadian views on water diversion that they share a similar protective attitude towards the basin. The only areas of clear Michigan-Canada priority (see footnote 50 on the conditions of temporariness and no feasible alternative) were incorporated in scenarios approved by groups from both countries. Thus, Canada's concerns about water diversion would be adequately reflected by Michigan in a states only subcommittee even if the provinces were not voting members of any water diversion project evaluation procedure.

Finally, to ensure that every project receives an equal hearing on water diversion (whether it is a Great Lakes state or non Great Lakes state applicant), it is suggested that the criteria adopted by the region be incorporated into a Great Lakes Impact Statement (GLIS) which every applicant would be required to submit. The GLIS would be modeled along the lines of the Environmental Impact Statement (EIS) of the National Environmental Policy Act (NEPA) with two important exceptions. First, the statement would have to address long range environmental and economic impacts of the project, with the burden of proof on the applicant to present the best available evidence to evaluate these impacts⁵⁶. Secondly, the adequacy of the GLIS would be determined not by a court but by a vote of either the Charter members or of the Council of Great Lakes Governors. Thus, the precedential value of each decision would be limited while the power of the states to delay or redefine diversions in an era of scientific uncertainty would be preserved.

With a regional body utilizing regionally protective and political acceptable criteria to evaluate water diversion proposals in a GLIS format, the political pressure on individual governors to veto a project is eased. The water diversion applicants will know the criteria in advance and some may well choose not to go forward if they do not meet these criteria. Those that do seek approval will be subject to regional scrutiny and information requirement that may well obviate the need for a gubernatorial veto but rather result in deferral until appropriate research is completed to evaluate the overall environmental and economic impacts as well as the cumulative effects on water levels. Only the smaller and best researched projects are likely to survive such scrutiny, and if a politically unacceptable project does manage to endure the process, a gubernatorial veto by the Governor of Michigan could be exercised as a last resort.

Brooks, Wyatt L. and Valerie M. Poglemon. "New Mexico Continues to Study Water Embargo Measures: A Reply to the State Water Law Study Committee." *Texas Technology Law Review* 16 (1985): 939-962.

Burby, R. et al. "Cities Under Water, A Comparative Evaluation of Ten Cities' Efforts to Manage Floodplain Land Use." (1988).

Cutler, L. "Water Resource Cooperation in River Basin Development." *Iowa Law Review*

⁵⁶Including the issues of cumulative water impacts and the quality of the water returned from any diversion.