

# DRAFT

## **PROCESS FOR FORMULATING THE BASELINE LIST OF OHIO'S EXISTING LAKE ERIE BASIN WATER WITHDRAWALS, CONSUMPTIVE USES, AND DIVERSIONS**

By December 8, 2009, the State of Ohio must furnish to the Compact Council & the Regional Body a baseline list of water withdrawal approvals or existing withdrawers as of the effective date of the Compact, indicating the approval amount or capacity of each existing withdrawal. Quantities of consumptive use and diversion associated with each withdrawer are also to be provided.

The quantities of withdrawal, consumptive use, and diversion set forth in the list will constitute the baseline quantities (i.e., the quantities that will be considered “existing” and therefore not subject to regulation as a “new or increased” withdrawal, consumptive use, or diversion).

Consistent with the water withdrawal registration and reporting requirement contained in the Compact, the Parties have agreed to include withdrawals equal to or greater than 100,000 gallons per day (gpd) in the baseline list unless there are withdrawal approvals set at lower quantities.

Due to the short timeline involved in completing and submitting the Baseline List, the Ohio Department of Natural Resources (ODNR) has already begun formulating the list. In December 2008, Division of Water staff sent a “Withdrawal Capacity Update” form to registered Lake Erie Basin facilities along with the normal Water Withdrawal Facility Registration Program (WWFRP) annual withdrawal report form. Each withdrawer was asked to review its withdrawal capacity information from the WWFRP database, to confirm its accuracy or provide updated information, and to return the completed form along with the annual withdrawal report.

### **Proposed Timeline for the Remainder of the Process**

March 15, 2009

Begin compiling the updated withdrawal capacity information for Lake Erie Basin facilities.

Begin working with officials from the communities who straddle the Lake Erie-Ohio River Basin divide (or who have other existing diversions) to compile information on existing infrastructure capacities for diverting water (and returning the unused portion).

May 7, 2009

Complete the first draft of the baseline list of withdrawal, consumptive use, and diversion approval amounts/capacities and provide it to the withdrawal facilities and to the Advisory Board for review.

Provide opportunity to withdrawal facilities to appeal their inclusion on the baseline list. Facilities on the first draft of the list will be removed if they can show that (1) they are not within the Lake Erie Basin, or (2) their existing capacity is less than 100,000 gpd.

June 1, 2009

Complete the second draft of the baseline list of withdrawal, consumptive use, and diversion approval amounts/capacities and provide it to the withdrawal facilities and to the Advisory Board for review.

August 15, 2009

Complete the final draft of the baseline list of withdrawal, consumptive use, and diversion approval amounts/capacities and provide it to the withdrawal facilities and to the Advisory Board for final review.

October 29, 2009

Complete all discussions with withdrawers and finalize the approval amounts/withdrawal capacities for all facilities.

Formulate the final baseline list.

December 8, 2009

Submit the baseline list to the Compact Council and the Regional Body.

December 15, 2009

As part of WWFRP annual report form mailing, notify withdrawal facilities of their approval amounts/existing capacities established in the baseline list.

### **Proposed Procedures for Determining Approval Amounts/Existing Capacities**

**Withdrawal:** The withdrawal capacity contained in the WWFRP database (as confirmed or updated by the withdrawal facility) will be reported as the approval amount/existing capacity of the withdrawal.

**Consumptive Use:** The measured or estimated consumptive use at the reported approval amount/existing capacity of the withdrawal will be reported as the approval amount/existing capacity of the consumptive use. Note that because of the difficulty in

measuring and/or estimating consumptive use quantities, this parameter may be reported as “provisional” and subject to revision in the future if better methods of measurement and/or estimation are developed.

Diversion: The diversion and return flow approval amounts/existing capacities of existing diversions by “straddling communities” and other diverters will be developed based on infrastructure capacities compiled through discussions with local officials.

### **Proposed Process for Appealing Inclusion on the Baseline List**

When the ODNR provides the first draft baseline list to the withdrawal facilities, a notice will be attached explaining that a withdrawer may respond in writing prior to July 1, 2009 indicating its desire to appeal its inclusion on the baseline list and providing information to support its appeal.

Upon receiving such a notification, ODNR staff will review the information provided to determine whether or not the withdrawal occurs within the Lake Erie Basin and whether or not the withdrawal capacity is equal to or greater than 100,000 gpd. If it is determined that the withdrawal occurs outside the Lake Erie Basin or that the withdrawal capacity is less than 100,000 gpd, the withdrawal facility will be removed from the baseline list.

ODNR staff will notify the withdrawal facility appealing its inclusion on the baseline list in writing of its decision.