

Got Water?

A Discussion of Water Use, New Legislation and Potential Impacts on the Turf Industry

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Background of Water Use and Legislation

The Great Lakes system is the largest body of freshwater in the world and is regarded by the citizens of Michigan as one of their most precious resources. It is common to hear the Great Lakes referred to as a “natural resource”, but over the last 20 years the water held within the Great Lakes basin is increasingly considered a “commodity”. As the population of our nation has steadily increased in the arid regions of the country, the demand for fresh water has become intense; particularly during the recent trends of extended drought in many areas. The water rich states in the Great Lakes basin had never experienced serious long-term water shortages to supply domestic, agricultural or industrial growth. Strict control or monitoring requirements on water users from *within* the basin have never been commonplace until recently. The golf course industry in this region has been shielded from the debate and conflict of water use issues that is routine throughout the rest of the country, particularly in Florida and the southwest US.

Who's Water Is It?

Protecting the diversion of Great Lakes water moved to the forefront of public policy in the Great Lakes basin during the 1980's when serious inquiries emerged from southern states to construct a pipeline into Lake Michigan to transport water outside the region. This began to crystallize the warnings of those who forecasted these events for several years. States surrounding the Great Lakes quickly realized their vulnerability and discovered that they may not be able to legally defend the diversion of Great Lakes water.



Legal reviews concluded that Great Lakes water is considered an article of interstate commerce by the US Constitution. Other trade laws including the General Agreement on Tariffs and Trade, the World Trade Organization Agreements, and the North American Free Trade Agreement seem to support this conclusion. If these laws were to be tested, Great Lake states would only have the right to regulate the use of the water in an even-handed manner for citizens and non-citizens alike. Not allowing other states to use the water would be considered protectionism and deemed unconstitutional.

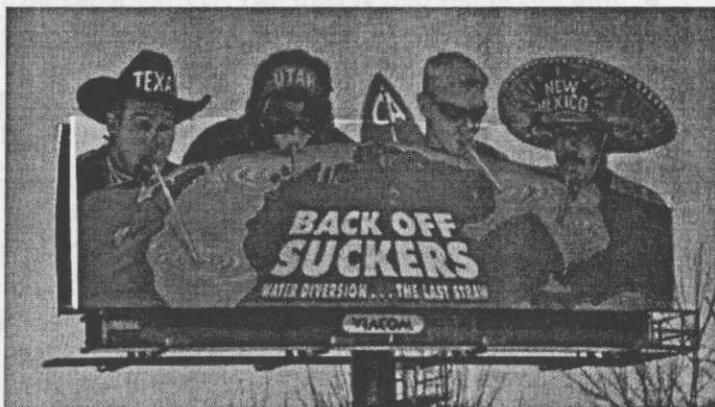
Forging Alliances

These issues were formally addressed in 1985 with the formation of the “Great Lakes Charter” which is a pact between the eight Great Lakes Governors along with the Premiers of Ontario and Quebec. This process resulted in the adoption of federal law – the Water Resources Protection Act of 1986 giving the Charter some teeth and recognition federally. To defend against water leaving the basin, these initiatives created a process where any diversion or consumptive use

greater than 5 million gallons per day would need the consent of each governor or premier of the affected states and provinces. This set up a veto power for each state and province for water use or diversion if they were over the “trigger level” of 5 million gallons per day. The charter also identified the responsibility for each state to collect specific information on existing water use by thermoelectric power, industrial, agricultural and municipal entities. It was several years before Michigan passed legislation to require these user groups to report monthly and annual water use. Many will remember the winter of 1994-5 when a water use reporting form showed up in the mail along with a letter declaring the requirement for all golf courses to monitor and report their annual water use and identify the source of their water.

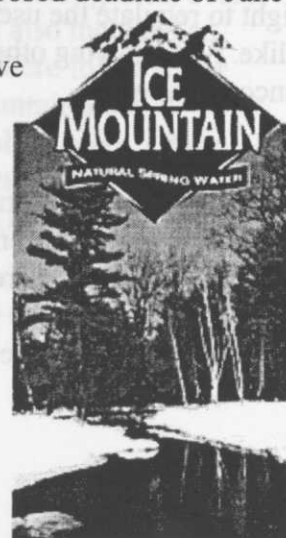
The Water Heats Up

There are two events in recent years that have raised these issues to another level. The first one occurred in 1998 when a plan was submitted in Ontario to draw 156 million gallons of water per year out of Lake Superior and ship it to Asia where the need for fresh water is in great demand. This prompted the governors to re-examine Charter agreement on its ability to prevent such deportation of Great Lakes water to areas outside the continent. This eventually led to the drafting of the “Annex 2001”, an amendment to the Great Lakes Charter that would fortify the document and address several additional issues. The primary influence of the Annex 2001 amendment is in the following areas.



- Create a new “Improvement Standard” to the water and dependent resources for all new uses. This will require that the water use results in an improvement to the physical, chemical, and biological integrity of the water system.
- It will lower the “trigger level” of diversion or use from 5 million gallons per day to 1 million gallons per day.
- Require a new water management system that will foster the conservation of water by all users.

The final version of the Annex 2001 has not been completed and a self-imposed deadline of June 2002 has passed. Governor Engler’s office reports that a number of issues have emerged that have slowed the process. The initial schedule should have produced a draft version available for public review in June. This would put them on a pace to have the document completed and signed by all 10 parties before the end of the year. Once signed, the states and provinces would to be granted a three year period to draft individual legislation that would enact the agreement back home. Final completion yet this year could be in jeopardy.



The second event that has fueled public debate was the issuance of a permit to the Perrier water bottling company allowing the construction of a water bottling plant in Mecosta County near Big Rapids. The plant was opened in 2002 and has the capacity to pump over 1 million gallons of water per day. Many feel this is a clear diversion of water when those bottles are shipped outside the basin. Others argued that many other food products containing water have been produced for years in Michigan such as soda pop, beer and processed foods, not to mention several other water bottling companies.

New Legislation and Golf Industry Impacts

New legislation affecting the way we use water is on the way. Exactly when it will arrive is not known. Even without the Perrier situation, all states would have been required to enact laws to uphold the new standards in the Annex 2001 agreement. Even if the Annex 2001 agreement folds and collapses, another similar initiative will be forthcoming as citizens in the Great Lakes Basin will not tolerate the risk of losing control. The Perrier situation provided the spark that lit a powder keg of debate. Michigan legislators had to balance the issue legislation to address the outcry from the Perrier permit and at the same time try to address the standards in the forthcoming Annex 2001. On the table right now are five bills. One bill was generated in the House of Representatives and four bills emerged from the State Senate. There is not much confidence that these bills will make it into law but they serve as a splendid platform to view the issues that will affect your use and conservation of water in the future.

I will attempt to combine the language and intent of the House and Senate bills into easy to chew concepts and potential impacts. The House Bill is number 5725 and was introduced in February, 2002 by Representatives Howell, Lipsey, Ruth Johnson, Mans and Birkholz and referred to the House Committee on Land Use and Environment. The Senate bills are numbers 1197-2000 and were introduced in March, 2002 by Senators Sikkema, North, Byrum, De Beaussaert, Hammerstrom, Johnson, Gast, Stille, Van regenmorter, Sanborn and Goschka and referred to the Senate Committee on Natural Resources and Environmental Affairs.

1. The bills are designed to create a permit system for the withdrawal of groundwater. They are focused on groundwater use and do not affect the use of surface water resources for irrigation.
2. All existing uses will be grandfathered and not require a permit as long as they comply with the current requirements of testing and monitoring initially. The Senate version gives you a ten year permit to operate the existing well and then future use would require a new permit.
3. A permit will be required if you are to install a new well system that will produce 70 gallons a minute or 100,000 gallons per day. The house version states that the system simply needs to have the *capacity* to pump 70 gallons per minute to require a permit.
4. Both versions of the bill packages (House and Senate) create two different permit pathways.



House Version –

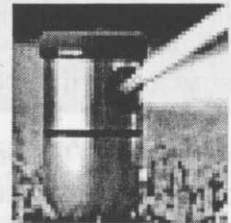
Class One Permit – Clear evidence of ample water and no conflict with any other person or use of the aquifer. The permit cost is \$500.00.

Class Two Permit – A conflict exists or there is no clear evidence of ample water available. You will need to supply a detailed hydrogeologic study and the bill has specific language on the information that needs to be included in the study. The permit cost is \$1,000.00.

Senate Version –

Existing Users – Verify that you are in compliance with current reporting requirements and a permit will be issued for continued use at existing withdrawal rates for a 10 year period. After 10 years or if rates exceed previous withdrawals a new use permit will be required.

New Users – Submit detailed hydrogeologic study. The bill identifies the specific data that needs to be supplied.



The information required to obtain a permit will be expensive. The golf course industry is familiar with supplying hydrogeologic data for new irrigation wells as they move through the public meeting and review process.

Additional information will be required for these new bills. It is difficult to estimate the cost of these studies because they will vary base on the complexities of the aquifers and location of the golf course. Estimates ranging from \$10,000 to over \$75,000 are not unreasonable.