



IGWA Newsletter

Summer 2008

The quarterly newsletter of the Indiana Ground Water Association (IGWA)

IGWA Office: 7915 S. Emerson Avenue, Suite 132, Indianapolis, IN 46237-9708
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INDIANA GROUNDWATER PROFESSIONALS . . .

JOIN THE IGWA FOR A SPECIAL SCHOLARSHIP GOLF OUTING

July 18th at the Links in New Palestine



MESSAGE FROM THE PRESIDENT

Dear IGWA Members,

The committee and board members of the

Indiana Ground Water association have been very busy organizing two different scholarship fundraisers for this year. The first is our Golf Outing, July 18th at the Links Golf Course, New Palestine. This promises to be a great time for all. Please plan on attending to help support our scholarship program. A special thanks to Bruce Moss for all the time and effort in coordinating this great event.

The second fund raiser is a Trap Shoot at Deer Creek Conservation Club on September 20th in Jonesboro, Indiana. This will be a lot of fun to see who is the best shot. Even if you don't own a shot gun, there will be people with guns to share. I recently became involved in this sport with in the last year. Both of my sons and daughter have had a lot of fun as well. We will have a Shot Gun Safety Class for first time shooters and instruction by experienced shooters. We will have a catered meal with time to share stories of the hits and misses of the day. A special thank you to Brad and Tanya Helvie who have made the arrangements for the site of this first-ever event to help raise funds for our scholarship fund. Please keep in mind this is a shot gun only event. 12, 16, 20 and 410 gauges are allowed and you will need to bring your own shot gun shells.

We look forward to our members supporting these worthwhile events as well as having a great time!

See you on July 18th and September 20th!

Sincerely,

Beehler Keiser
President, IGWA

SCHEDULE (EASTERN STANDARD TIME)

- 9:30 am Board of Directors meeting – IGWA Board Members Only
- 11:00 am Registration Opens
- 12:30 pm Putting Contest – Qualifying Round \$20 per put
- 1:00 pm Tee Time (Shot Gun Start)
End of Round – Putting Contest Final Four followed by the Championship Put
- 6:00 pm Dinner with grilled burgers, brats and more . . .

Cost: \$75 per person and includes round of golf, water and sodas, cart, dinner and prizes

Hole-in-One Contests will be located at each of the Par 3 holes (4 holes in all).

- \$10,000
- Calloway irons Set
- Electronics Package
- 2 airline tickets or cruise for 2

Putting Contest – see schedule above

- \$2500 Cash Prize for the Championship Put

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Golf Contests

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**REGISTRATION
FORM AND
SPONSORSHIP
OPPORTUNITIES
ON PAGE 2.**

SCHOLARSHIP GOLF OUTING REGISTRATION FORM

JULY 18, 2008 • The Links in New Palestine, Indiana

Complete this form and return with your payment to the IGWA by July 10, 2008.

You may also access this form via the IGWA website at www.indianagroundwater.org.

(Please Print)

CONTACT: _____

COMPANY: _____

ADDRESS: _____

CITY: _____ ST: _____ ZIP: _____

PHONE: _____ FAX: _____

EMAIL: _____

Friday, July 18, 2008

_____ # person/s for the GOLF OUTING/DINNER/PRIZES at \$75 each. \$ _____

Golfers names:

1) _____

2) _____

3) _____

4) _____

_____ # adult/s for DINNER ONLY at \$25 each \$ _____

SPONSORSHIP TOTAL (see options below) \$ _____

TOTAL \$ _____

PLEASE SEND REGISTRATION AND CHECK TO IGWA AT:

7915 S. Emerson Avenue, Suite 132, Indianapolis, IN 46237-9708 • Fax: 317-889-3935
QUESTIONS? CALL 317-889-2382 OR 888-443-7330 • EMAIL ingroundwater@msn.com

SPONSORSHIP OPPORTUNITIES

Sponsors will be acknowledged verbally and on signage throughout the program in addition to an upcoming issue of the IGWA Newsletter.

Contact: _____

Company: _____

Phone: _____ Fax: _____

Email: _____

I wish to be acknowledged as (name of company, etc.):

Please Print

Sponsorship deadlines are July 10, 2008!
Don't miss this great opportunity!

GOLF SPONSORSHIP

_____ Hole Sponsor: \$125

_____ Closest to the Pin: \$125

_____ Farthest Drive: \$125

_____ Sponsor Package A: \$250
(includes hole sponsorship
and two golfers)

_____ Sponsor Package B: \$375
(includes hole sponsorship
and four golfers)

_____ **SPONSORSHIPS: \$250**

LEGISLATIVE UPDATE

The National Groundwater Association's annual Legislative Conference was held earlier this year in Washington D.C.

Ron Shipe, Shipe Well Drilling, IGWA Treasurer and Brent Welty, Welty & Sons Well Drilling, IGWA Past President represented the Indiana Groundwater Association Sunday, February 24th through Tuesday, February 26th.

Ron and Brent along with Robert Stone, Senior Vice President of Franklin Electric, and Michael Morris of Lee & Ryan Environmental Consulting, met with Rep. Mark Souder of the 3rd District, Scott Morrison in Senator Evan Bayh's office and Amy Oberhelmarin of Senator Lugar's office. Rep. Souder, as usual, gave them 45 minutes of his time. (Last year he spent the same amount of time with Mike Kaufman and Donna Sheets.)

Robert Stone also met with Rep. Mike Ferguson of the 7th District (interim for Rep. Julia Carson, recently deceased). Robert Stone and Michael Morris also met with Danny Crouch of Rep. Mike Pence's office.

The NGWA's legislative staff and Chris Reimer along, with the DUTCO legislative consultants, prepped everyone with the issues at hand. The key issues at the time were:

Geologic Carbon Sequestration — disposal of carbon dioxide (CO₂) into the subsurface via well injection is one of the considerations as a viable approach to mitigating greenhouse gas buildup. The CO₂ generated from large industrial sources is captured, com-

pressed and transported where it is injected into a deep geologic system to be permanently sequestered.

Secure Water Act S. 2156 — water shortages are being experienced now and are anticipated over the next 20 years. While states are gathering data to inform decision making, no state has met its data collection goals. Only 28 states responding to an NGWA survey are confident they know the potential yield from all of their state's aquifers. One of the key objectives is to enhance the data collection in order to base the monitoring activities on sound science.

Clean Construction USA sponsored by the EPA to regulate the heavy-duty vehicle and its fuel as a single system. The NGWA asks that they be used as a resource when evaluating and implementing programs regarding this issue.

Past issues also mentioned were:

- LUST: Leaking Underground Storage Tanks – Last year Rep. Souder wanted to know how many were in his district. The NGWA researched and came up with the information. IDEM will provide more information.
- Geo Thermal Heat Pump Credit
- Safe Drinking Water Grants

The IGWA sponsors two members to attend the Legislative Fly-In each year by paying for registration, airfare and hotel. The NGWA reimburses the IGWA up to \$1,000. If you are interested in serving on the Legislative Committee or Board of Directors, please contact a current IGWA board member.



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For sponsorship opportunities with the Indiana Ground Water Association, please contact any board member or Donna Sheets at 888.443.7330 or ingroundwater@msn.com

FIGHTING FRAUDULENT EVENTS

Indiana Ground Water Association Sends Press Release

(Indianapolis, IN, March 2008) – Recently reported fraudulent events in the news have prompted this release. The Indiana Ground Water Association wishes to inform water well owners throughout the state of key information you should request of your water systems contractor. If you are having a new well installed, your contractor should have the following:

- Indiana Drilling License issued by the Indiana Department of Natural Resources Division of Water. You can visit their website for all licensed contractors throughout the state at www.in.gov/dnr/water and click on Ground Water/Wells or call them at (317) 232-4160 or toll free at 1-877-928-3755
- Certificate of Insurance
Additional information you may ask – How long have they been in business? Do they provide a written estimate/contract? If so, is their company name included on the letterhead/invoice? What type of deposit is required? What are their professional affiliations? Are they a member of the Indiana Ground Water Association, National Ground Water Association, American Water Works Association, or the American Ground Water Trust? Are they an NGWA certified well driller and/or pump installer?
- Did you know there is a "Foundation for Affordable Drinking Water" low interest loans available for low to moderate income households? Ask your contractor or contact the IGWA to find out more.

If you would like information on the Indiana Ground Water Association, please call 317-889-2382 or toll free 888-443-7330, visit www.indianagroundwater.org, or email ingroundwater@msn.com

NON-RENEWING MEMBERS

It's not too late!

We still have approximately 30 members that have not renewed. If you are not sure if you have renewed, give us a call at 888-443-7330.

NEW IGWA FALL EVENT

Saturday, September 20th, Trap Shooting Event at Deer Creek Conservation Club, Jonesboro, IN (near Marion and Gas City) This event will also benefit our Scholarship Fund.

This is a FIRST-TIME IGWA EVENT so mark your calendars!

–Brad Helvie, Chair

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*Which just goes to show . . .
what happens in Vegas . . .
does not have to stay there!*



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HOW MUCH WATER IS LOST IN THE GREAT LAKES BASIN?

Do you ever wonder how much of the water that we remove from the Great Lakes for use in everyday products such as food, ethanol, household chemicals or paper products, is not returned? Or what type of use is most likely to cause these losses?

Information about these and other types of “consumptive” water use for the Great Lakes basin can be found in a new U.S. Geological Survey (USGS) report that will be used by water-resource managers and planners in the Great Lakes as they develop policies to encourage efficient and sustainable water use.

“We found that irrigation and livestock had the largest losses compared with total water withdrawn from the Great Lakes basin,” said Kimberly Shaffer, hydrologist with the USGS and author of the report. “Of the total water withdrawn for irrigation, 70-100 percent was lost to the basin.”

The authors examined seven consumptive water-use categories: domestic and public supply, industrial, electric power, irrigation, livestock, commercial, and mining. Consumptive water use is water that is evaporated, transpired, incorporated into products or crops, consumed by humans

or livestock, or otherwise removed from the immediate environment. It is usually reported as a percentage of the amount of water withdrawn.

This study is relevant to the Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement, an agreement between eight states and two Canadian provinces that would prohibit major diversions of water beyond counties bordering the basin.

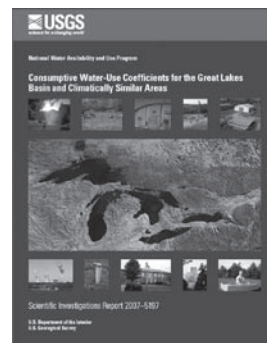
“We are pleased that the USGS has compiled this consumptive water use information in one report. It will be a great resource for water-resources managers and planners in the Great Lakes,” said David Naftzger, Executive Director of the Council of Great Lakes Governors.

For this report USGS compiled, mapped, graphed, and statistically analyzed consumptive water use numbers from more than 100 sources as a starting point for facility managers, water managers, and scientists in determining the amount of water consumed in seven water-use categories: domestic and public supply, industrial, electric power, irrigation, livestock, commercial, and mining.

For comparison purposes, consumptive use information for basins and states that have climates similar to the Great Lakes basin are included in the report. Methods for computing and estimating consumptive use are also presented, as is an extensive bibliography.

A fact sheet titled “Consumptive Water Use in the Great Lakes Basin,” by Kimberly H. Shaffer, is available at <http://pubs.usgs.gov/fs/2008/3032/>. The full report titled “Consumptive Water-Use Coefficients for the Great Lakes Basin and Climatically Similar Areas,” by Kimberly H. Shaffer and Donna L. Runkle, is available at: <http://pubs.usgs.gov/sir/2007/5197>

More information by the U.S. Geological Survey’s National Assessment of Water Availability and Use Program for the Great Lakes Basin is available at: <http://water.usgs.gov/wateravailability/greatlakes>



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AN ANALYSIS OF THE POTENTIAL IMPACT OF THE GREAT LAKES-ST. LAWRENCE RIVER BASIN WATER RESOURCES COMPACT ON GROUNDWATER RIGHTS

What is the Public Trust Doctrine?

The public trust doctrine, at its core, is the proposition that lands that underlie navigable waters are property of the state, held in trust for the public (see *Illinois Central Railroad v. Illinois*, 146 U.S. 387 (1892)).

What is the Great Lakes-St. Lawrence River Basin Water Resources Compact?

The Great Lakes-St. Lawrence River Basin Water Resources Compact (hereafter referred to as “the Compact”) is an agreement among eight Great Lakes states (Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin) to protect water from the Great Lakes-St. Lawrence River Basin. The Province of Ontario and/or the Province of Quebec may also become party to the Compact. Among other things, the Compact allows governors to veto any plan to divert water from the Basin to other regions of the country unless all of the governors in the region agree.

The Compact will become effective once the eight state legislatures approve the agreement, as Illinois, Indiana, Minnesota and New York have done, and the Compact is approved by the United States Congress. A bill is pending in Michigan, and appears to be headed for passage. One chamber in each of the legislatures of Ohio, Pennsylvania and Wisconsin has passed the bill. However, the Compact has raised difficult questions in Ohio and Wisconsin. In Ohio, the key issue revolves around the Compact’s effect on property rights. In Wisconsin, a legislative study group failed to reach consensus on a recommendation on the bill to approve the Compact, with property rights forming one of the stumbling blocks.

What does the Compact have to do with Groundwater Rights?

Recently, a great deal of concern has been expressed over the impact that the Great Lakes St. Lawrence River Basin Water Resources Compact could have on surface water and groundwater rights. The concern over groundwater is greater, due to the apparent attempt to expand the public trust doctrine to groundwater.

The concern with respect to water rights

focuses on Lines 187–188 of the Compact, which states, “Waters of the Basin are precious public natural resources shared and held in trust by the States (emphasis added).” This sentence appears to attempt to exert the public trust doctrine over “Waters of the Basin.” “Waters of the Basin” are defined as “the Great Lakes and all streams, rivers, lakes, connecting channels and other bodies of water, including tributary groundwater, within the Basin” (Lines 178 180).

Expansion of the public trust doctrine to groundwater is nearly unprecedented (see, e.g., Swenson, Erik, “Public Trust Doctrine and Groundwater Rights”, 53 U. Miami Law Review 363 (1999)), arguing that the public trust doctrine should apply to groundwater, but acknowledging that no court had so held). Only one state Supreme Court has held that the public trust doctrine applies to groundwater — Hawaii (In re Water Use Permit Applications, 94 Hawaii 97, 9 P.3d 409 (2000)). The result in that case hinged on the history of the Kingdom of Hawaii, so is inapplicable in the rest of the country.

State legislatures, however, are beginning to attempt to apply the public trust doctrine to groundwater. In the April 2008 Around the States, a monthly legislative report from Water Systems Council available to WSC members, it was reported that Rhode Island (Rhode Island HB 7787) has introduced such legislation, while Vermont (SB 304) has passed legislation declaring that groundwater is subject to the public trust doctrine. That bill is awaiting signature by the Governor.

Commentators have recognized the impact of the Compact in this regard. “With little fanfare, the Charter and the Compact both recognized that the public trust doctrine applies to groundwater as well as surface water” (Scanlan, Sinykin and Krohelski, “Realizing the Promise of the Great Lakes Basin Compact: A Policy Analysis for State Implementation”, 8 Vermont Journal of Environmental Law 39, 49 (2006-2007)). “If water is a public trust held by the government for the public benefit, then private ownership of water for primarily a private

purpose is precluded and water will need to be managed within the Basin in a way that upholds the public interest and protects the water commons” (Id).

Could the Compact impact private well owners’ rights?

Given the declaration of the public trust over groundwater in the Basin, concerns about private water rights are understandable. However, the Compact seems to contradict this language in Section 8.1.1 and Section 8.1.4.

Section 8.1.1. Nothing in this Compact shall be construed as affecting or intending to affect or in anyway interfere with the law of the respective Parties relating to common law Water rights. Section 8.1.14. “An approval by a Party of the Council under this Compact does not give any property rights...; neither does it authorize any injury to private property or invasion of property rights...”

In Ohio, for example, the reasonable use rule applies with respect to groundwater (*Cline v. American Aggregates Corp.*, 15 Ohio St.3d 383, 474 N.E.2d 324 (1984); see Water Systems Council Special Report, *Who Owns the Water*, for more information). In addition, the Ohio Supreme Court has declared that “[t]he title to property includes the right to use the groundwater beneath that property...Cline recognizes the essential relationship between water and property and confirms that groundwater rights are a separate right in property” (*McNamara v. Rittman*, 107 Ohio St. 3d 243, 838 N.E.2d 640 (2005)).

This confusion has prompted a State Senator in Ohio to propose legislation that would have Ohio adopt the Compact, but striking the language that attempts to impose a public trust on the water. Adoption of this bill would essentially place the Compact back at square one, since all states must approve the identical language for the Compact to become law.

Also instructive are the comments of the Special Committee on Great Lakes Water Resources Compact of the Wisconsin Legislative Council in a report dated October

5, 2007. The Special Committee was to make a recommendation on whether the Wisconsin legislature should adopt the Compact or not.

The committee reported that a number of issues had been raised but not resolved during their deliberations, including “matters relating to the Public Trust Doctrine and its relationship to the Compact ... Perhaps in time some of those items could be resolved, but others may hang over the state for many years to come.” (Id).

The impact of the public trust language in the Great Lakes-St. Lawrence Basin Water Resources Compact casts doubt on the continuing viability of groundwater rights in the Great Lakes Region. In addition, the passage of the Compact by the remaining states would add to the list of legislative

To access the Wisconsin legislative report referenced in this analysis, and other documents related to that committee's deliberations, see: www.legis.state.wi.us/lc/committees/study/2006/GLAKE/index.htm

Dan McCreddie, Kokomo Pump Supply
Jeff Pikel, The DeHayes Group

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CALENDAR

July 2008

- 18 IGWA Board of Directors – Links Golf Club, 9:30 am
- 18 IGWA Scholarship Golf Outing – Links Golf Club
 11:00 am: Registration
 12:30 pm: Putting Contest Qualifications
 1:00 pm: Tee Time
 6:00 pm: Est. Dinner and Awards

September 2008

- 20 IGWA Fall Event — Trap Shooting
 Deer Creek Conservation Club, Jonesboro, IN
 (Near Marion and Gas City). This event will also benefit
 our Scholarship Fund.

March 2009

- 22-24 NGWA Legislative Fly-In

IGWA 2007 CONFERENCE PHOTOS

Last issue we published some great photos from the IGWA 2007 Conference. However, we made a BIG mistake and failed to identify who generously provided those photos.

We would like to thank **WorldWide Drilling Resource®** for taking the time to document the event and letting us reprint the photos in the newsletter.

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