Great Lakes Charter Annex Agreement Implementation

Interim Measures Workshop

To Discuss Possible Interim Controls on Intra-Basin Water Transfers

PROCEEDINGS

February 11th, 2008

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Executive Summary

This Workshop provided an opportunity for members of the Great Lakes Charter Annex Advisory Panel, key municipal representatives, and other stakeholders to consider the range of options to review and manage intra-basin water transfer proposals (from one Great Lake watershed to another) until such time as regulations are in place to support the intra-basin transfer provisions of the *Safeguarding and Sustaining Ontario's Water Act* (SSOWA).

The objective of the workshop was to offer a forum for dialogue and discussion, for information sharing and idea generation. The range of options that were developed by participants will be considered by government.

The workshop generated a great deal of discussion by those who participated and a number of ideas for the short term emerged. A number of key points were raised by the participants. It was a widely held view that we need to consider the possibilities that exist to implement the spirit of the Agreement prior to the creation of regulations under the SSOWA. Many participants felt that interim measures are needed to do this.

Participants noted that there is a range of options that can be contemplated and there is opportunity to capitalize on combining several of these to create a framework to manage intra-basin transfers during the transition from now until the regulations have been brought into effect. It was noted that options exist along a continuum and range from short-term to medium-term to long-term in focus. They also range from voluntary measures that can be implemented relatively easily to mandatory measures. A number of specific options were considered including conservation measures, the issuance of guidelines, the consideration of a return flow requirement, and an interim moratorium. A great deal of discussion was spent focusing on the interim moratorium and while this was the preferred approach noted by some, others felt that the option of return flow may be a suitable option. There was no consensus reached. It was further noted that a moratorium needs to consider who will be affected and how and in this regard, issues with respect to grandfathering need to focus on equity and fairness and ensuring that any interim measures treat all uses and users in the same manner so that there are easily understood rules and an equal playing field for all.

In addition to the suite of interim measures, a number of noteworthy action items were identified. It was suggested that we need to better understand who will be affected by any measures implemented and how. In this way, participants suggested a data gathering and analysis process would be useful and advised that a diagnostic assessment be completed by the Province to determine more fully who will be affected and how. Reviewing the *Places to Grow Act* (PTG) was also identified as a specific action item as it was noted that the Growth Plan is a framework for managing growth. Having an adequate water supply to sustain current and projected population levels is critical, and on this basis, a review of the PTG Act (and/or plans prepared under the Places to Grow Act) was recommended.

The dialogue and discussion that occurred during the workshop will be used to inform the government decision-making process concerning interim measures and next steps.

Acknowledgements

We would like to extend our thanks to those who participated in the February 11th Workshop and to those who worked diligently to ensure the meeting was well organized and successful.

Having a broad spectrum of interests enabled all participants to better understand both the issues and the opportunities that municipalities presently face with respect to planning for water and wastewater treatment facilities. It allowed all participants to understand the context and the controls that are presently in place as well as those afforded through the Great Lakes Charter Annex Agreements and the impending legislation.

We are pleased with the outcome of the workshop and with the level of discussion that was generated. We are committed to continuing the dialogue with our stakeholders and partners and to considering the opportunities that this discussion raised concerning the need for additional dialogue, particularly on a sectoral basis. We also remain committed to working with the members of the Advisory Panel as we consider the range of possibilities that exist to implement the intent of the Agreement. We will collectively as members of the Provincial Team take these proceedings back to our senior staff for direction.

Cynthia Carr Ministry of the Environment Rob Messervey Ministry of Natural Resources

Workshop Participants

Stakeholders, Municipalities and First Nations

Adrian Coombs - York Region

Austin Kirkby - Niagara on the Lake Irrigation Committee

Bob Duncanson - Georgian Bay Association

Craig Reid – Association of Municipalities of Ontario

Dan McDermott - Sierra Club of Canada

Derek Stack - Great Lakes United

Elizabeth Griswold - Canadian Bottled Water Association

Erin Kirk – Lake Huron

Greg Aickele – Region of Peel

Jeff Smylie - City of Mississauga

John Kirkby - Niagara on the Lake Irrigation Committee

Josephine Mandamin - Chiefs of Ontario, Anishinabek Women's Water Commission

Judah Harrison - Ecojustice

Kaoru Yajima - Waterloo Region

Lino Grima - Sierra Club of Canada

Lynn Moreau - Union of Ontario Indians

Marcus Firman - Town of Collingwood

Mary Muter – Georgian Bay Association

Michele Maitre - York Region

Nicola Crawhall - Great Lakes and St. Lawrence Cities Initiative

Peter White - Ontario Sand Stone and Gravel Association

Rob Carson - Ontario Power Generation

Robert Wright - personal (formerly of Ecojustice)

Sarah Miller – Canadian Environmental Law Association

Shivan Narine - York Region

Tim Lotimer - Ontario Municipal Water Association

Tim Morris – Walter and Duncan Gordon Foundation

Tony Maas - World Wildlife Fund

Government Representatives

MNR: Rob Messervey, Dan Marinigh, Paula Thompson, Leith Hunter, Danielle

DuMoulin, Karen Abrahams, Rheanna Leckie

MOE: Cynthia Carr, Caroline Cosco, Naomi Lan, Alex Phillips, James Flagal, Dan

Dobrin

MMAH: William Martin PIR: Michael Azulay

1.0 Background

In June 2007, the Safeguarding and Sustaining Ontario's Water Act (SSOWA) received Royal Assent, amending the Ontario Water Resources Act as part of Ontario's commitments to implement the Great Lakes — St. Lawrence River Basin Sustainable Water Resources Agreement (Agreement), signed in 2005 by Ontario, Quebec and the eight Great Lakes States. The development of Intra-Basin Transfer Regulations under SSOWA and supporting policies (e.g., revised Permit to Take Water Manual) has been identified as a short-term priority; however, it is anticipated that the suite of implementation elements could take up to three years to finalize, given the need for contributing science (e.g., consumptive use, GL watershed mapping tool), the importance of engaging members of Ontario's First Nations community, the Great Lakes Charter Annex Advisory Panel (Advisory Panel), municipalities and the public and the need to lever implementation progress by other Great Lakes jurisdictions.

Members of the Annex Advisory Panel continue to play a vital role in assisting the Province in advancing its commitments under the Agreement. With respect to the provisions of the Agreement that relate to the management of intra-basin water transfers, there are some Advisory Panel members who are of the view that Ontario's legislation should be more stringent than the Agreement. While Ontario was not in a position to consider new policy beyond the scope of the negotiated Agreement when it passed its enabling legislation (confirmed by ADM Kevin Wilson in correspondence dated January 30th, 2007), modifications were made to the legislation enabling greater flexibility to strengthen intra-basin transfer provisions by regulation. In addition, a commitment was made to "engage the Panel in early dialogue of interim measures." Members of the Advisory Panel supported the passage of the SSOWA on the basis that the Advisory Panel would continue to be engaged in the development of policies and regulations for implementation of the Agreement, including possible interim measures.

At a meeting held in November 2007, members of the Advisory Panel emphasized the importance of examining existing control measures and looking for interim measures to manage intra-basin water transfers (transfers from one Great Lake Watershed to another), given the government's commitment to action, the anticipation of intra-basin proposals being brought forward and the time horizon associated with enabling the new regulations. In light of these concerns, a joint commitment was made by the Ministry of Natural Resources and the Ministry of the Environment to host a one-day workshop involving key ministries, Advisory Panel members and key municipalities to collectively discuss the issues and the suite of interim measures that could be contemplated by the Province. To achieve this objective, a one-day Workshop was held on February 11th, 2008.

2.0 Workshop Proceedings

The following Report captures the discussions held during the Workshop and the key points of discussion that were raised. This Report will be shared with all who attended the Workshop of February 11th.

2.1 Introduction

This Workshop focused on whether and what interim measures are needed to manage intra-basin transfers until regulations are enacted under the SSOWA. Some members of the Advisory Panel do not feel that existing controls provide enough assurance to control the transfer of water from one Great Lake watershed to another. Others feel that the existing controls are adequate. Still others are undecided. The workshop provided a venue for focused discussion and allowed participants to debate the need for interim measures and to discuss the range of interim measure options that are available and could be considered by government.

Karen Wianecki welcomed all to the workshop and outlined the focus for the meeting. She provided an overview of the structure and setup of the meeting, key objectives and what we hoped to achieve by the end of the session. Rob Messervey welcomed all delegates on behalf of the Ministry of Natural Resources and Cynthia Carr extended a welcome to all on behalf of the Ministry of the Environment. Participants took the time to introduce themselves briefly.

2.2 Purpose & Objectives

Karen indicated that the workshop would provide members of the Annex Advisory Panel (AAP) with an opportunity to discuss the range of possibilities to manage intra-basin water transfers on an interim basis, until the regulations are in effect. In particular, she indicated the purpose of the workshop was to allow participants to provide input and advice to government concerning first, whether interim measures are needed and second, the range of possibilities that can be considered by government.

Karen noted that the objectives for the workshop were as follows:

- 1. Understand the current challenges and complexities faced by Ontario municipalities in planning for water and wastewater servicing (e.g., managing growth, master planning, Municipal Class EA, Permit to Take Water, etc.)
- 2. Understand the current controls provided through existing measures (e.g., 1985 Great Lakes Charter, other legislation and regulations)
- 3. Understand the context provided by the Agreement and the measures to control intra-basin transfers that will be provided for under the *Safeguarding* and *Sustaining Ontario's Water Act* and Regulations.
- 4. Define the constraints, the issues and the opportunities associated with managing or controlling intra-basin transfers what are we trying to accomplish?
- 5. Develop a collective sense of the perspectives of all participants with respect to intra-basin transfers.

6. Working in four small groups, to develop a suite of interim measures options to be considered by the Ontario Government to manage or control intra-basin water transfers.

2.3 Setting the Stage – Intra-Basin Transfers, The Great Lakes Charter Annex Agreement & Other Key Legislation (Slide Deck A)

Rob Messervey took delegates through an overview of the Annex Agreements. He provided the historical backdrop and noted the Great Lakes Charter was signed in 1985 and that considerable work has been underway since that time to develop the *Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement* (2005) and the SSOWA in 2007.

Rob reviewed the key provisions of the original Great Lakes Charter of 1985 (which continues until provisions of the Annex Agreement are in force) and the 2005 Annex Implementing Agreement, including the fundamental principles upon which the Agreements are based. Rob spent some time reviewing the provisions contained in the Implementing Agreement and the reference to diversions. He also took the opportunity to review the provisions for new or increased intra-basin transfers and the three thresholds of 19+ mld, 379,000 – 19 mld, and less than 379,000 litres per day. Rob reviewed the exceptions provided for in the Agreement, as well as the key provisions in the SSOWA and the thresholds contained therein.

He reviewed the SSOWA Exception Standard Criteria and the Regulation-Making Authorities for Intra-Basin transfers under the SSOWA. Rob also reviewed other significant legislation, regulations and policy that are in place and provide a focus for planning activity, environmental protection, and water resource management as well as others.

Rob spent some time reviewing the SSOWA linkages and in particular to the Greenbelt Plan under the *Greenbelt Act*, the Growth Plan for the Greater Golden Horseshoe under the *Places To Grow Act, 2005*, the relationship to the *Planning Act* and the overarching umbrella provided by the Provincial Policy Statement (Water Policy, Sewage & Water Systems).

2.4 The Current Municipal Planning Process

Shivan Narine took participants through the existing municipal planning process and linked the current planning approvals process with master planning. The detailed presentation has been included in the attached Slide Deck (Appendix A).

2.5 Case Study

Paula Thompson provided an overview of a fictitious case study that was used to demonstrate the issue of long-term water supply and the important relationship to future community growth. The case study documented the issues and the options and provided delegates with a first hand view of the interpretation of the Agreement in contrast with current Great Lakes Charter provisions. Details of the Case Study have been included in Appendix A.

2.6 Issues, Challenges & Opportunities

Participants took the time to discuss, in a large group, the issues and challenges associated with the current planning and approvals process. They were asked to consider the key challenges and the opportunities in managing intra-basin water

transfers in the interim period until SSOWA regulations are enacted. Several key issues were noted:

- Any interim measures need to be considered in light of their impact on the ecological integrity of the Basin any measures identified need to protect ecosystem integrity and this was identified as paramount for the group in considering the range of possibilities.
- The Agreement is premised on a number of governing fundamentals, including the Precautionary Principle any interim measures need to fit into this context and against the backdrop of these 'governing fundamentals'.
- Climate change needs to be considered in terms of its potential impact.
 According to current work completed on climate change, runoff is anticipated to decrease (some scenarios suggest a decrease by 20%) and the issue of water generally and water supply and demand issues in particular will increase.
- There are some activities (agriculture, for instance) that need to be recognized as unique. A number of issues in this regard were raised by attendees respecting the Permit To Take Water process. Those representing agricultural interests noted that the special needs of the agricultural sector need to be reflected in any interim measures that are decided upon.
- There are opportunities to develop and define a consistent framework for conservation we need a detailed and a consistent framework and parameters.
- There should be an approach that focuses on incentive-based funding. (Example: recognize 'high performers'- e.g. related to water conservation through a rewards-based funding system).
- Also need to be mindful of the health risk and environmental quality balance and when we 'tip the scales'.

2.7 The Range of Possibilities

Participants engaged in a large group discussion about the range of possible interim measures that could be contemplated. The range of options exist along a continuum. At one end of the spectrum are no measures (proceed with intra-basin transfer regulation and policy package) or voluntary measures and at the opposite end are regulatory or mandatory measures. The range of options also fall along a time horizon from those that can be implemented and effected immediately (short-term) to those that will take longer to implement (medium-term) to those that are long term in focus. A number of suggestions were identified, including:

- Interim moratorium;
- Water metering and/or conservation measures;
- Requiring return flow to the source Great Lake watershed;
- Lower thresholds:
- Modification of existing controls and systems, such as Permit To Take Water Program, low water alerts, and environmental assessments; and
- Guidance for municipalities in developing Class EAs involving intra-basin water transfers and for key ministries (MOE, MNR, MMAH) in the review of these Class EAs.

In considering the range of possibilities, the objective is really to identify ways in which the intent of the Agreement and the existing legislation can be met in the interim period.

An interim moratorium was discussed extensively by those in attendance. Several issues were identified as requiring additional thought:

- How will this be defined?
- Are we referring to a moratorium that applies to transfers specifically or are we referring to a moratorium from the perspective of what is driving the transfer (e.g. municipal growth)?
- Are we defining a moratorium on the basis of a performance measure (15%) or are we basing this on a pre-determined (e.g., anything above 379,000 ld or 19 mld)?

Water metering was discussed as an option but it was recognized that expeditious implementation may not be possible, for many reasons. It was also noted that water metering and water valuation need to be recognized as a driver/incentive for a conservation philosophy or mentality. It was pointed out that there is a direct correlation between the cost per unit of water and water conservation - an initial outlay and investment is required and that this needs to be factored into the equation when contemplating the ease of implementation, financial burden and the like.

Requiring return flow of water to the source watershed, less a consumptive use allowance, was also identified as an option. It was noted that return flow has a number of challenges in that further parameters arise such as the allowance for consumptive use portions and standard for quality of water returned. There are also complexities associated with defining consumptive use amounts.

Water conservation measures were noted as another interim measure that could be contemplated. It was recognized however that conservation measures would likely not be implemented on an interim or transitional basis, but rather would be implemented and carried forward in tandem with other initiatives and options. It was noted by some in attendance that a "Soft Path" should be considered along with the need for more aggressive conservation measures (e.g, Building Code requirements stipulate low volume toilets but there is no requirement to ensure these low volume facilities remain in place after a home has been purchased).

Lowering the existing thresholds currently in the Agreement was also noted as an option. Taking consumptive uses out of the equation and simply focusing on total transfer would have the effect of reducing the overall threshold. Some felt the issue of consumptive use was inherently complex and that the measures need to be 'measurable.' Effort should be volume-focused and volume-based according to the amount of water withdrawn from the source watershed rather than the amount used.

As an ancillary point of note, it was also suggested that while not an interim measure, there is a need to tie action on interim measures to the low water alerts that are issued for the Province. Concern was raised that a number of watersheds have experienced level three low water conditions yet restrictions on water use were not imposed, as required under the Ontario Low Water Response program.

Several other points of discussion were raised:

The PTG Act needs to be reviewed in particular in light of the moratorium discussion. The PTG Act provides the basis for communities to grow and identifies a framework for place-based growth in Ontario. Based on water use and availability, it is important to understand whether these communities have the ability to grow based on both current and future water supply and demand.

Diagnostics are needed: there is a need to better understand the extent of concerns. What we are trying to fix and the extent of the problem needs to be fully appreciated and documented. There is a need to complete a full diagnostic to identify existing transfers, proposed transfers, current constraints, where we are right now, and where municipalities are with respect to the PTG framework. We need to be able to understand who will be affected and how.

Moratorium defined: we need to clearly define what we are referring to when we speak about a moratorium. Are we talking about an outright, all-inclusive moratorium? Are there exceptions that should be provided for? Are there groups who are not represented here who need to be consulted further (e.g., the agricultural sector)? How would an interim moratorium affect others? Who are these others? How will they be impacted?

A majority of participants agreed that there was a need for interim measures and that taking no action was therefore not an option. However, some felt that it would be better to step up the timetable for creating the regulations and not spend time and resources on interim measures. It was suggested that most projects would not be implemented any sooner than the three-year timeframe and that therefore most would be captured under the regulations.

2.8 Small Working Groups

Delegates were divided into four (4) smaller working groups, with diverse representation. The groups were organized to be cross-functional in focus and orientation and each group was charged with the responsibility of considering whether interim measures were needed and, if so, developing the range of possibilities that could be considered by government to manage or control intra-basin water transfers until such time as the regulations come into effect.

Groups were provided with a set of instructions and were asked to examine the suite of options that had been discussed in the large group. Each small group was asked to complete a gap analysis of the list and to add to, or delete, anything that was not identified as relevant, applicable or appropriate. Each group elected a timekeeper, a recorder and a spokesperson. They were provided with one hour to discuss the interim measures. They were asked to identify the challenges and the opportunities associated with each option and to present a range of preferred options during the large group report back. The summary discussions from each of the four small working groups follow.

2.9 Group Report Back

Group 1:

Group 1 noted one area of consensus -that interim measures were needed and that no action was not an option. Group 1 noted further that interim measures are needed that meet a range of concerns. Group 1 noted the inherent benefit that interim measures might allow the regulations to be put in place properly rather than rushed so that all of the options can be explored.

Group 1 focused on the merits and challenges of several interim measures, including:

- Interim Moratorium
- Conservation Plan
- Return Flow

Interim Moratorium:

On the positive side, an interim moratorium could be implemented quickly. There is however a need to consider the regulatory burden (of a moratorium in combination with other processes - PTTW for example) and to engage a broader audience in discussing impacts and implications. There is a need to fully understand who is impacted by this and the limits on growth that may be very real considerations. The interim moratorium would give us the time to assess the impacts of transfers and could also be implemented in tandem with other options (e.g., conservation measures, particularly since it was noted that a moratorium might drive conservation). It was noted that there is a need to create a consistent and level playing field so that all Ontarians are treated equitably and fairly, and also the issue of whether a moratorium in Ontario and not elsewhere in the region could affect industry. The issue of grandfathering was raised in the context of what will be grandfathered and where in the process grandfathering would take place. The group discussed the issue of grandfathering and suggested that if full EA approval has been received (or a notice of completion issued), it would be grandfathered (i.e. not subject to the moratorium).

Conservation:

Group 1 noted that conservation takes time, education and grass-roots action to change as you are focusing on a change in mind-set and behaviour. The most critical element of conservation is to begin with children to promote conservation thinking. Conservation measures, to be effective, cannot be achieved overnight, and are difficult to promote to water users who are not responsible for obtaining water (i.e., public water users). Some group members identified the need to contemplate some mandatory measures (e.g. the point raised with respect to the Building Code and low volume toilets). In addition, the cost to implement these measures needs to be taken into account as well as the impact on water users. Group 1 felt that conservation should be pursued for all users rather than simply focusing on one group.

Ban on Transfers Without Return Flow (Minus Allowance For Consumptive Use) Group 1 identified a ban on transfers without return flow (minus an allowance for consumptive use) as a possible interim measure but noted that this option requires further analysis and discussion with respect to the details of this option (e.g., water quality, mechanism and approvals, tracking). In addition, as for a moratorium, the issue of grandfathering would need to be defined clearly (e.g., what will be grandfathered? An approved Class EA?). The triggers would need to be developed and defined so that it is well understood by all.

Requiring Master Servicing Plans Prior to EA.

Requiring a Master Servicing Plan (that considers Agreement provisions) prior to EA was also discussed by the group. They noted from a positive perspective that this option could allow rules to be established around the Master Plan that would be in direct alignment with the Agreement. The group also noted that it may be advisable to determine whether this requirement could be included under the OWRA regulations (need to check). This option, it was noted, may be helpful over the long term as the consideration of water and wastewater would be undertaken together in the Master Plan. One noteworthy challenge associated with this option is the interpretation challenge as there are no regulations in place. Also, Master Plans are

not subject to provincial review unless they are undertaken under the MEA Class EA process.

Review of Places To Grow

Some members of Group 1 confirmed their support for a review of the PTG Act. They identified the need to review PTG Act in light of an explicit consideration of transfers.

Detailed notes from Group 1 are included in Appendix B.

Group 2:

Group 2 looked at a number of options from the perspective of the merits and challenges associated with each. In general, Group 2 noted the importance of having agreement at the Provincial level on a suite of options before change can be affected at the lower tier. It was noted further that the political acceptability of these options will weigh heavily and that any alternatives must be doable, have value, be feasible and not conflict with existing regulations or solutions that are presently in place.

Do Nothing

Like the first group, Group 2 looked at a "Do Nothing" option as unviable. From their perspective, doing nothing may result in an uncontrolled 'rush' to beat the regulations. The timeframe to implement the regulations has been estimated at 2-3 years but there is nothing definitive in this timeframe. Interim measures may have the effect of acting as an incentive to expedite the regulations — if no interim measures are in place, this could create a disincentive to expedite the regulations. In addition, a do nothing approach would not provide needed clarity or identify the rules.

Guidance

Group 2 looked at education and outreach and the production of guidelines to promote learning and awareness. They recognized that this is not a stand-alone measure but would need to be a supplementary measure to be implemented in tandem with other interim controls. They recognized that the ultimate guidance would be the regulatory framework and that best practices will emerge from the application of the regulations. It was recognized however that as an interim measure, guidelines can give municipalities 'clout' or authority and under Bill 51; there are new tools that have been included. Group 2 noted that challenges associated with guidelines are the planning cycle and the fact that guidelines are just that, guidelines – they do not require mandatory compliance.

Screening for Class EA:

Group 2 spent some time discussing the option of a Class EA for intra-basin transfers. The merits of this option would include a higher signoff at the agency level and the fact that scientific rigour would be incorporated as well as a public consultation component. The challenges were noted as follows: the timeframe to implement is too short for new Class EA; no guarantee that the outcome will be any different; it is a means to accomplish transfer but is clearly more permissive than a stringent moratorium and finally, it doesn't affect the fundamental question of whether or not you are able to get the water.

Conservation:

Group 2 also focused on conservation as an interim measure. The group noted that conservation can be efficient and used to demonstrate need; that it is part of a bigger educational piece and that it has the potential to be an extremely powerful tool. It

was noted, however, that conservation offers no regulated guarantee and there are issues that need to be discussed further (e.g., funding, as municipalities don't have a user pay system; where is the source information from?)

Return Flow:

Group 2 focused on the option to require return flow and noted that this could be an alternative to the 'heavy hammer' of a moratorium. While a requirement on return flow would establish a clear threshold and would result in quality standards, the expense of return flow may kill many projects (seen as a positive aspect by some and a negative aspect by others). There are a number of challenges that need to be addressed, including: pipe to pipe versus pipe to watercourse; different quality standards; it may result in a moratorium; possible loss through consumption as a 'product.'

Moratorium:

Finally, Group 2 focused on an interim moratorium. They felt that a moratorium is a clear way to demonstrate that an emergency response is needed. A moratorium, the group noted, offers a definitive, clear and strong statement. A moratorium buys time and allows the regulations to be developed properly and the science to be evaluated. A moratorium would establish clearly the conditions, the scale, the scope and the timing and would need to address grandfathering and the current legislation. It was felt that developers should be involved in the discussion of a moratorium. On the negative side, a moratorium raises the issue of whether or not we have the right to declare an outright moratorium as this opens up the challenge and the debate. A moratorium may have a negative impact on industry and development. It may conflict with the Growth Plan and the PTG Act and it would be wise to first assess the impacts of a moratorium by understanding the current projects and the current status of intra-basin transfers. A moratorium may not be politically acceptable.

Detailed notes from Group 2 are included in Appendix B.

Group 3:

Group 3 did not rule out the option of having no interim measures and instead focusing on developing regulations more quickly. They also spent some time discussing interim measures, including:

- Conservation Plan
- Return Flow
- Moratorium
- Cut-Off Date

Conservation Measures:

Group 3 noted that the Province needs a Conservation Plan in place. The group further noted that Conservation Plans are different for different sectors (e.g. residential vs. golf courses). They noted that the PTTW process is currently building in conservation plans. They also noted that with respect to water metering, there is a variation among municipalities in terms of response — some are doing water metering, but not all. From a conservation perspective, they noted that municipal requirements (low volume toilets) are affected by population growth but that these measures represent the 'low hanging fruit.' Conservation measures require long term lifestyle changes and over the long term may change the way water is provided.

Return Flow:

The group spent a long time discussing return flow and it was felt that requirements for return flow might cause this option to be a moratorium in itself. Costs would be prohibitive to implement. It was noted that the issue of return flow needs to be well understood. One group member stated that a requirement for return flow on transfers above a certain threshold and proposed after a certain date would be the ideal option. Specifically, the group felt that a good option would be a moratorium on transfers without return flow above 379,000 L/day, with required conservation plans, and grandfathering of existing projects with a certain cut-off date.

Moratorium:

The group felt that an outright moratorium was not a good option. Several points of note that were raised by the group included the need to deliver a service versus the need to provide for and accommodate growth. Some discussion took place around the trigger and where in the process a moratorium would be affected. Two triggers were identified: those already in the EA process and those for which an approved EA has been obtained. It was suggested that Class EAs that were completed prior to July 2007 (SSOWA passed into legislation on this date) would not be affected. Anything approved after that time would be subject. In addition, it was noted that there needs to be consideration given to non-municipal water users.

Additional discussion also focused on a moratorium with a threshold (e.g. 379,000 ld).

In considering interim options, several other points of note were raised by group 3:

- There is not a lot of rationale for choosing Great Lakes water over groundwater – we need to know more about groundwater quality and quantity.
- If we expedite the regulations under the SSOWA, there would be no need for interim measures.

Detailed notes from Group 3 are included in Appendix B.

Group 4:

Group 4 spent considerable time discussing the moratorium option, its merits and challenges. The group noted several other options worthy of consideration including moving forward quickly on implementing the regional water conservation and efficiency objectives, and eliminations from the continuum, and felt that none of the options, including the "no measures" option, should be eliminated from the list. The bulk of discussion, however, was devoted to the issue of the moratorium. They noted a number of merits with respect to the concept of a moratorium, including:

- Consistent playing field for all sectors;
- Enables principles of the original agreement to be put in place immediately;
- Simple and easy to understand;
- Efficient timelines; and
- Lower cost than some options.

Group 4 noted that there are a number of challenges associated with a moratorium, including the following:

- Municipalities can run into problems where they have not planned for a transfer but have been told to provide water based on health and safety concerns of a neighbouring community (related to water quality).
- What would the threshold amount be for the moratorium?
- If you were to lower the threshold so as not to involve the consumptive portion it would have a large impact on industry.
- Cost of interim measures resources spent may be greater than gain achieved.
- Concerns over timelines within the municipal planning process.
- Moratorium may just cause economic hardship there is a need to consider the effects on new projects and those that are already in the works.

Detailed notes from Group 4 are included in Appendix B.

3.0 Summary, Recap & Where To From Here

Following the individual group report back, K Wianecki and R Messervey offered a summary of the progress made during the workshop. They noted the following key points that had emerged from the discussion:

- Interim measures are needed.
- A range of possibilities exist along the continuum from voluntary measures to mandatory measures.
- There are a number of factors that need to be taken into account, including, above all else, the need to focus on the ecological integrity of the basin, the political acceptability of the options and the ease with which they can be implemented.
- The majority of discussion focused on a moratorium but no group consensus
 was reached on whether this is the option of choice. Some concerns were
 raised about the need to understand the implications of a moratorium who
 would be affected and how, and to involve these groups in the discussion.
 Municipalities expressed some concern about the implications of a
 moratorium on their ability to meet growing water needs.
- There is opportunity to focus on the options either separately or together as they hold promise in terms of controlling intra-basin transfers on an interim basis.
- There is a need to promote equity and fairness and a level playing field so that all uses and users are treated the same, regardless of the option selected
- More consultation is needed with specific sectors, including agriculture.
- Some of the options need to be understood not as interim measures but as measures that could be carried forward (e.g. conservation objectives and principles).
- Conservation is the fundamental foundation upon which all of our efforts should rest.
- The PTG Act needs to be reviewed in light of the moratorium option, to determine whether those municipalities identified as Growth Centres in the Growth Plan for the Greater Golden Horseshoe can actually meet the provincial objectives, given current water supply, and in terms of appropriateness of goals given the objective of keeping water within a watershed.

The return flow option received considerable attention as an alternative to a
moratorium. Some concerns were raised around the return flow option – for
example, the need to consider the quality of return flow, and who would be
affected by the approach and how (e.g. return flow cost prohibitive for some).
These impacts need to be studied and better understood.

Finally, it was noted that perhaps the terminology interim measures is not accurate. The objective is to secure an approach that will allow the intent of the Agreement to be implemented now, in advance of the SSOWA regulations.

Rob noted that the next steps will involve preparing a set of proceedings from the workshop and sharing those with participants. He noted that senior management within PIR, MMAH, OMAF, MOE and MNR will meet to assess the options and alternatives and that senior direction to complete further analysis will have to be obtained. Rob made a commitment to continue to engage the Advisory Panel and to engage others in discussions and indicated that he will be taking back the recommendation to engage in discussions on a sectoral basis. In addition, he noted the importance of understanding the impacts and implications on business in particular. In closing, Rob noted the session had generated a number of excellent ideas as well as a number of points worthy of note.

Cynthia Carr closed the meeting by echoing Rob's comments and indicated her pleasure at the way the Workshop had unfolded. She indicated that MOE as part of the Provincial team will be taking the suggestions and ideas forthcoming from today's meeting into account as the Province develops its "go forward strategy".

I WANT THE LAST WORD

There are a number of issues that were raised by participants after the Workshop had concluded. These were captured on the "I Want The Last Word" forms that were distributed as part of the Handbook package. These are included here as they were submitted.

- Doing nothing on interim measures and expecting regulations on transfers and conservation measures is an option. Expediting the regulatory process will at least buy certainty for all sectors, and should be pursued.
 - The time at which cut-offs for EAs should be if the EA has started because that is the best option for the municipality and requiring other/different processes would be costly to developers, industry and taxpayers.
- The *Places to Grow Act*, through the Growth Plan, does not say municipalities must grow, but sets out a framework to strategically manage growth. The population and employment allocations are tools for planning. These allocations will be reviewed every 5 years (First time is 2011). Therefore, there is an established review process already for reviewing these allocations.
- Need representation from developers and agriculture. I suggest BILD for development.
- Discussion focused on 'change legislation' or 'invoke a moratorium'
 (extremes). No acknowledgement of existing best practices being
 implemented/used to protect/enhance ecosystem by municipalities. Merits
 could have included these best practices but seemed to end up at largely
 undefined/indefinable big picture/blue sky discussions.
- Interesting but unsatisfying day at the end frustrating at the presenter's failure to present the Group's notes. The 2 or 3 people with personal agendas beyond the scope of the workshop are bullies and were somewhat catered to in the interests of peace.
- As we look down the road, we (Ontario/Canada) could be challenged to our waters by the US. Our only defence is to have a moral high ground of demonstrated water stewardship. Adhering to the spirit of the Annex with regard to intra-basin transfers would be a good step in this direction.

Appendix A: Slide Decks

To be distributed separately

Appendix B: Small Group Discussions – Record of Dialogue & Identification of Interim Measures

Group 1:

Delete no-interim-measures option: general agreement, two objections. Discussion:

- Noted that reality is that time spent on interim measures slows down development of regulations.
- Is it worth spending a year on interim measures and making regulations take 1 year longer?
- Most important point is that more elaborate measures will take longer.
- 3 years could still be too late if we only "expedite regulations".
- Regulations should be the best they can be, and not rushed.

On moratorium:

- It's just asking for a moratorium until they know better science, and just on transfers.
- But in *Places to Grow Act*, we must allow new water you will prohibit development
- It would drive conservation because we would use conservation to grow.
- But how can you force people to conserve? It won't happen overnight.
- If Canada is the only one with this rule, our industry will suffer.
- Growth will be focused on intensity in an area, not new areas.
- Will be damaging to Ag, and municipalities.

Possibly a **review of Places to Grow** is needed. No transfers and conservation should become a major consideration in growth.

What about **requiring return flow** for non-consumptive use (i.e., ban on transfers with no return flow)?

- That requires diagnostics preference would be on all transfers. For example, mechanisms for return flow? Quality? Sewage question?
- Another issue is grandfathering. Somewhere you have to draw the line for currently proposed transfers e.g., an approved EA is exempt. (Noted that approval is really a notice of completion no official approval is issued.)

On conservation option:

- Need behaviour change which takes time, but some things can be done quickly. e.g., greywater.
- Greywater brings up worries of water quality in use
- Can you link conservation to transfers require plan, for example?
- Low water alerts need more promotion to encourage conservation

- Conservation is costly for municipalities particularly small municipalities, where infrastructure does not balance out the costs there is no return on investment as in larger places.
- Also worth noting that unit cost of water goes up with metering/conservation costs for users will not decrease.

On requiring Master Servicing plan prior to EA

- Province to set standard –doesn't necessarily have to approve. So, set up legal framework for master plans?
- May be a reg-making authority under OWRA. Work with planning.
- Some groups would worry about description of municipality. From a municipal perspective, if you're trying to be 'in spirit', regs may change drastically and be much stricter when they actually come out.
- All these processes are intertwined, hard to separate.
- Still should have a moratorium while you figure it out.
- If you're going to make changes that adjust the planning process, these can be permanent things coming from the act itself.

General notes:

We'll need separate discussion on agricultural issues.

There's too much regulatory burden already – forms are so difficult to fill out, process is very confusing, there's too much to do and it's too costly.

Group 2:

What are the merits of each option and key challenges?

General Comments:

- One challenge disconnect between ministries and ministry priorities -> need agreement on priorities among ministries, i.e., Places To Grow, CWA, Aggregate Act
- Need to manage growth
- Alternatives such as a moratorium must be doable.
- The only thing that will be heeded is a moratorium.
- 'Do nothing' alternative is not an option.
- Every action needs to consider consequences. It has to be something we can do it can't conflict with existing regulation.

1. No interim measures:

- no incentive to expedite the regulations
- not a viable option
- doesn't address issue that there may be proposals in the works
- need something to control things until regs are ready need something in place
- uncontrolled rush to beat regs "horses rushing out before the gates close"
- doing nothing is not an option something must be done.
- doesn't bring any clarity/rules

2. Guidance:

- can issue guidance but not really more effective than do nothing.
- guidance is fine as a supplementary measure.
- interim guidance material is better than doing nothing
- provides clarity/clout and gives the municipalities heads up as to where the regs are going.

Challenge:

- implementation timeline linked to planning cycle (municipalities require certain studies)
- they are not rules; not enforceable

3. Screening for Class EA (do these types of proposals warrant an increase to a higher category?)

- should have the most level of rigour
- can spell out parameters you want to address.
- work within current Class EA (schedule) or create a new class EA.

Challenge

- Will the outcome be any different?
- Who's going to pay?
- The EA process tends to balance interests
- Is there time for an interim measure of new class EA ie. Enforcement
- Class EA as permissive vs restrictive. It's not an alternative to a moratorium.
- Doesn't address the policy question: "Do they get the water or not?"

4. Require Conservation Plans

- at least they're thinking about conservation shows good intent
- conservation plan has to be for everything (for new water and existing water)
- conservation is a powerful tool

Challenge:

- People's conservation plan can be to 'do nothing' it's not the same as a regulation doesn't guarantee they have to meet any objectives
- Who bears the cost? Municipalities don't have a user pay system
- May not have resources to develop plans

5. Require Return Flow (for all or majority of transfers)

- clear threshold
- can be as effective as an alternative to a moratorium
- water quality issue must be treated discharge
- change threshold or require return flow

Challenge:

- pipe to pipe vs pipe to watercourse lack of science of how water is measured
- expense of return flow would kill the project

6. Moratorium on intra-basin transfers

- moratorium has a timeframe
- clear, strong message; proclamation of emergency; strict

- creates window for addressing issues (buys time to get other things done i.e. conservation measures to deal with science, mapping of groundwater aquifers, to get regs in place)

Challenge:

- is the moratorium absolute or conditional?
- would kill development in Ontario or locate adjacent to the Great Lakes basin
- assessment of current projects/ activity status
- determining the right to declare a moratorium can you challenge a moratorium?
- conflict with Growth Plan?
- not politically acceptable
- what about projects that are in the works (grandfathering)

Group 3:

Water Conservation

There is a societal view of water as plentiful. We have a high per capita water use. The culture of high water use should be examined and changed. Conservation measures should be policy driven, non-elective, sectorally focused and not the sole responsibility of municipalities. We have the water we have; there is "no more water". Costs of providing additional and quality water will be high.

Non conservation related measures suggested do not get us to examining alternatives or the <u>need</u> for transfers. "Low hanging fruit" alternatives like low volume toilets and conservation plan requirements are inadequate if taken in isolation. Municipalities (e.g. Waterloo) can exhibit achievements in reductions of water use.

The Need for Research

There is a need for greater understanding of the availability of groundwater. Transfers are not cheap. It doesn't seem sensible to transfer water long distances. It is often preferable to choose a long distance transfer from a Great Lake over a withdrawal from a local river or ground water source in a community. This could be due to misconceptions or lack of knowledge relating to availability and quality of groundwater and river surface water.

Paradox

Municipalities face a paradox with respect to growth areas. They are faced with expectations to provide services for new growth, but are dealing with legislation and policies relating to conservation which provide challenges for growth. And OMB appeals would tend to support the growth. Municipalities need to work with certainties.

The group supported interim measures as follows:

- 1. Focus on:
- expediting research and diagnostics relating to impacts of possible other measures and;
- Expediting regulation development under the Safeguarding and Sustaining Ontario's Water Act.

- 2. Projects with EA approvals in place by July 2007 (passing of SSOWA) are grandfathered (not affected by the moratorium or further requirements)
- 3. For non-grandfathered projects:
- For transfers of 379,000 litres of water per day, there would be a requirement of return flow to the source watershed.
- Conservation measures would be required.

The group felt that this requirement of return flow/conservation plans would have the effect of a moratorium.

Group 4:

Are there Additional Measures that could be options other than those listed?

- Lower transfer threshold so that it doesn't consider consumptive use
- Fast implementation of conservation objectives in Ontario could assist in implementing the terms and allow for conservation without going to a moratorium

Are there Measures on the continuum that should be eliminated?

One proposal was to eliminate "no measures" but then it was raised that we
need to look at all the extra work that needs to be done in terms of what other
jurisdictions have to do to implement, so we don't want to get out too far
ahead of them

General Thoughts on Moratoriums

- Should not make a change that will be in conflict with the regulations so as to not impair users in the meantime.
- Intra basin transfers legislation or moratorium is going to affect bottlers (water, pop, juice) as they will have to build a plant right near the source so as to not transfer, whereas right now they are staying away from the source so as to protect it.
- A better understanding of science is needed; best measure may not necessarily be a moratorium; that might just cause economic hardship. Caution is needed but a moratorium may be an extreme
- Need to look at what is in the planning process to be implemented 3 years down the road, put the moratorium on them to allow regulations to be put in place prior to their transfer going ahead.
- Need to also talk about the softer science issues, first nations concerns, economic impacts
- Moratorium is going to affect all those that have gone so far forward in the planning process need to find out what that number is, how big they are and what the time horizons are in order to properly address the option

Discussion of Possible Measures

Moratorium

How to/ Thoughts/Pros

- When would the moratorium take effect on proposals already in place? Before they hit the switch would be the ultimate option. Allow them to go through all the planning, the tests, then make them wait until the regulations are in place before they can act.
- A full moratorium provides a constant level of certainty across all sectors
- Leads under the principles of original agreement
- Full moratorium is less complicated and easier to implement rather than more detailed specific moratoriums
- Some thought a moratorium should be on certain projects due to the nature of the planning process
- Although it is an extreme, some may argue that it's a necessary extreme
- Moratorium would only be on new or increased proposals, and above a certain threshold. Moratorium might spur water conservation and efficiency in a big way. Robust solution
- There has to be a way to get conservation dealt with by the user not the permit holder

Concerns/Challenges

- In terms of water transfers from already existing water suppliers such as London, it was not known in the master planning stage that they would be required to supply water to additional towns. These were last minute directions that were called for to alleviate groundwater safety concerns in neighbouring towns. Hard to work this into the master plan stage if it's going to be trumped in the end. This was done through a water supply agreement, very quick. The city had just redone their mater plan and had no choice than to take them on, given less than a year. The situation was that some of the municipalities were already on the system, but the agreement brought the whole municipality on the system.
- Need to find a way to capture those not going through the long term planning process. This might need to be case by case basis, but we need to have better understanding of how many cases of these types of transfers will take place in the next few years. It will be hard to evaluate all of them at once as not everyone is coming forward at the same time
- Can't have a blanket moratorium as need that case by case basis
- Timeline of the withdrawal applications in the planning process needs to be considered; if a municipality is taking multiple small takings they would need to be considered. Need to look at watershed basis as well
- Don't waste resources on something that isn't going to get worked into the new regulations
- A better understanding of science is needed; best measure may not necessarily be a moratorium; that might just cause economic hardship. Caution is needed but a moratorium may be an extreme.
- Don't know that its necessary, extreme
- Need to look at what in is the planning process to be implemented 3 years down the road, put the moratorium on them to allow regs to be put in place prior to their transfer going ahead.
- Need to also talk about the softer science issues, first nations concerns, economic impacts

Lowering the Volume Threshold that Triggers Review or the moratorium Concerns/Challenges

- Lowering the volume threshold (beyond just removing consumptive use threshold) would be considerable impact to industry, and large beverage producers. (For those not on municipal systems)
- Intra basin transfers legislation or moratorium is going to affect bottlers (water, pop, juice) as they will have to build a plant right near the source so as to not transfer, whereas right now they are staying away from the source so as to protect it.
- Moratorium is going to affect all those that have gone so far forward in the planning process need to find out what that number is, how big they are and what the time horizons are in order to properly address the option.

Concerns/Challenges

- Requiring return flow would affect the bottled water industry due to consumptive use
- Raises big issues on costs to twin pipes

Appendix C: Agenda

<u>Purpose:</u> To allow participants to put forward for the consideration of the Ontario Government, options to control intra-basin water transfers in the Great Lakes Basin as an interim measure until regulations implementing key provisions of the Great Lakes – Sustainable Water Resources Agreement and the *Safeguarding and Sustaining Ontario's Water Act* are developed and come into force.

Objectives:

- 1. Understand the current challenges and complexities faced by Ontario municipalities in planning for water and wastewater servicing (e.g. managing growth, master planning, Municipal Class EA, Permit To Take Water, etc.).
- 2. Understand the current controls provided through existing measures (e.g. Great Lakes Charter, other legislation and regulations)
- 3. Understand the context provided by the Agreement and the measures to control intra-basin transfers that will be provided for under the *Safeguarding* and *Sustaining Ontario's Water Act* and Regulations.
- 4. Define the constraints, the issues and the opportunities associated with controlling intra-basin transfers what are we trying to accomplish?
- 5. Develop a collective sense of the perspectives of all participants with respect to intra-basin water transfers.
- 6. Working in small groups, to develop a suite of interim measure options that will be considered by the Ontario Government to control intra-basin water transfers.

Suggested Agenda Monday, February 11th, 2008 Simcoe Room, MacDonald Block, Queens Park, Toronto

Timo	Agendo Detaile	Doenoncible
Time	Agenda Details	Responsible
9:30	Welcome & Introductions	Karen Wianecki, Facilitator
	Welcome from the Province – MOE & MNR	Cynthia Carr/ Rob Messervey
9:40	Confirmation of Meeting Purpose & Objectives	Karen Wianecki
9:45	Providing the Context & Setting the Stage – Intra-Basin Transfers, The Great Lakes Charter Annex Agreement & Other Key Legislation Great Lakes Charter, 1985 Great Lakes Charter Annex Agreement, 2005:Key Commitments & Provisions Safeguarding and Sustaining Ontario's Water Act provisions, regulation-making authority Government Intentions re: development of intrabasin transfer regulations Other significant legislation, regulations, policy	Rob Messervey
10:15	 The Current Municipal Planning Process Municipal Planning Made Plain – An Overview of the Existing Planning and Approvals for Water and Wastewater Projects 	Shivan Narine, York Region
10:45	Networking Break	
11:00	Case Study Overview	Paula Thompson
11:30	 Current Challenges & Opportunities – Facilitated Plenary Discussion What are the challenges associated with the current planning and approvals process? What are the key challenges or opportunities in managing intra-basin water transfers in the interim to completing SSOWA regulations? 	Karen Wianecki & Delegates
11:50	 Range of Interim Measures Possibilities – Plenary Discussion Given the current municipal planning and approvals process and our discussion of challenges and opportunities, are interim measures required? Continuum of options to manage intra-basin water transfers – from voluntary to regulatory Brainstorming of possible options in context of challenges, opportunities Factors to consider in evaluating options 	Karen Wianecki & Delegates
12:20 – 2:45	Small Groups Meet YOUR CHALLENGE: EVALUATE THE SUITE OF POSSIBLE INTERIM MEASURES WE HAVE IDENTIFIED TOGETHER, USING THE CASE STUDY AS A 'WORKING EXAMPLE' AND IN LIGHT OF THE CHALLENGES AND OPPORTUNITIES	All Delegates – Charette Format

Great Lakes - St. Lawrence River Basin Sustainable Water Resources Agreement Implementation

Time	Agenda Details	Responsible
	IDENTIFIED	
12:30	Informal Working Lunch (In Small Groups)	
12:45 – 2:45	Small Working Groups – Charette Participants are divided into small groups with diversified representation. Given the large group discussions relating to current challenges and opportunity areas, and possible interim measures, each group will be asked to evaluate the suite of interim measures to control intra-basin water transfers. Key questions to be answered include the following: - What are the merits of each option in	
	 addressing the key challenges? What challenges may arise out of each approach? Are there any additional approaches that should be considered? Should any of the options be eliminated from consideration or recommended? 	
2:45	Networking Break	
3:00	Large Group Reconvenes for Report Back & Discussion (Approximately 20 minutes per group)	Karen Wianecki & All Delegates
4:30	Closing Remarks: Recap, Summary & Where To From Here	Karen Wianecki
4:45	Meeting Concludes	

Methodology

- The Workshop will begin with large group discussion and will then proceed into small round table (Group) discussions.
- The majority of the Workshop will be spent in small working group discussions.
- Prior to the Workshop, this Handbook will be distributed to all participants to ensure delegates have the same information, understand the Charette objectives and come prepared to participate and share their thoughts, perspectives, insight and wisdom.
- Handbook to include:
 - o Agenda
 - o Ground Rules
 - o Facilitator's Foreword
 - Workshop Methodology

Small Working Group Instructions

- 1. You have been assigned to a small Working Groups. We have attempted to create cross-functional groups with a diversity of representation. If you are concerned about the Working Group you have been assigned to, please see me (Karen Wianecki).
- 2. Each Group is asked to evaluate a suite of interim measure options to control intra-basin water transfers. You will have from 12:20 until 2:45 to complete this task.
- 3. Each Working Group should appoint a recorder, a timekeeper and a spokesperson.
 - The recorder should keep track of the key points of agreement that have been reached within the Group relating to the preliminary design plan. The recorder should be prepared to submit on behalf of the Group, the set of options and a short text describing your top priority in words (e.g. the rationale behind why you are recommending what you are recommending).
 - The **timekeeper** is responsible for keeping the Group on task and on time. Please look at the time available and decide what needs to be done and apportion your time accordingly so that you have completed all tasks by 2:45.
 - The spokesperson will be required to present to the large group, a summary of your Group discussion and an overview of your interim measure options. Please rank these in order of priority. The spokesperson will have up to 20 minutes to report back to the large group, commencing at 3:00.
- 4. You have been provided with a number of resources for your use:
 - A 'Tool Kit' that contains pens, pencils, erasers, crayons and/or pencil crayons, tape and accessories that you may use in developing your interim measures.
- 5. There is also a 'Resource Library' for the use of all Working Groups that has been established. Here you will find supplementary documentation and information including a copy of the Agreement, SSOWA, the Municipal Engineers Association Class EA etc. that may assist you in finalizing the details of your interim options. If you borrow material from the Resource Library, please use and return it promptly as others may need to use this as well.

If you are unclear of your task or you run into complications, please contact me directly.

Karen Wianecki