

HB0375



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0375

Introduced 1/26/2007, by Rep. Jack D. Franks

SYNOPSIS AS INTRODUCED:

New Act

Creates the Great Lakes-St. Lawrence River Basin Water Resources Compact Act. Ratifies and authorizes the Governor to enter into the Great Lakes-St. Lawrence River Basin Water Resources Compact. Sets forth the language of the Compact. Requires the Department of Natural Resources and other State agencies to perform, at the direction of the Governor, the functions and duties required of Illinois under the Compact. Effective immediately.

LRB095 05252 BDD 25329 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Great
5 Lakes-St. Lawrence River Basin Water Resources Compact Act.

6 Section 5. Execution of Compact. The Governor is hereby
7 authorized and directed to execute a compact on behalf of this
8 State with any other state or states legally joining therein in
9 the form substantially as follows:

10 "AGREEMENT

11 Section 1. The states of Illinois, Indiana, Michigan,
12 Minnesota, New York, Ohio and Wisconsin and the Commonwealth of
13 Pennsylvania hereby solemnly covenant and agree with each
14 other, upon enactment of concurrent legislation by the
15 respective state legislatures and consent by the Congress of
16 the United States as follows:

17 GREAT LAKES-ST. LAWRENCE RIVER BASIN WATER RESOURCES
18 COMPACT

19 ARTICLE 1

1 SHORT TITLE, DEFINITIONS, PURPOSES AND DURATION

2 Section 1.1. Short Title. This act shall be known and may
3 be cited as the "Great Lakes-St. Lawrence River Basin Water
4 Resources Compact."

5 Section 1.2. Definitions. For the purposes of this Compact,
6 and of any supplemental or concurring legislation enacted
7 pursuant thereto, except as may be otherwise required by the
8 context:

9 Adaptive Management means a Water resources management
10 system that provides a systematic process for evaluation,
11 monitoring and learning from the outcomes of operational
12 programs and adjustment of policies, plans and programs based
13 on experience and the evolution of scientific knowledge
14 concerning Water resources and Water Dependent Natural
15 Resources.

16 Agreement means the Great Lakes-St. Lawrence River Basin
17 Sustainable Water Resources Agreement.

18 Applicant means a Person who is required to submit a
19 Proposal that is subject to management and regulation under
20 this Compact. Application has a corresponding meaning.

21 Basin or Great Lakes-St. Lawrence River Basin means the
22 watershed of the Great Lakes and the St. Lawrence River
23 upstream from Trois-Rivières, Québec within the jurisdiction
24 of the Parties.

1 Basin Ecosystem or Great Lakes-St. Lawrence River Basin
2 Ecosystem means the interacting components of air, land, Water
3 and living organisms, including humankind, within the Basin.

4 Community within a Straddling County means any
5 incorporated city, town or the equivalent thereof, that is
6 located outside the Basin but wholly within a County that lies
7 partly within the Basin and that is not a Straddling Community.

8 Compact means this Compact.

9 Consumptive Use means that portion of the Water Withdrawn
10 or withheld from the Basin that is lost or otherwise not
11 returned to the Basin due to evaporation, incorporation into
12 Products, or other processes.

13 Council means the Great Lakes-St. Lawrence River Basin
14 Water Resources Council, created by this Compact.

15 Council Review means the collective review by the Council
16 members as described in Article 4 of this Compact.

17 County means the largest territorial division for local
18 government in a State. The County boundaries shall be defined
19 as those boundaries that exist as of December 13, 2005.

20 Cumulative Impacts mean the impact on the Basin Ecosystem
21 that results from incremental effects of all aspects of a
22 Withdrawal, Diversion or Consumptive Use in addition to other
23 past, present, and reasonably foreseeable future Withdrawals,
24 Diversions and Consumptive Uses regardless of who undertakes
25 the other Withdrawals, Diversions and Consumptive Uses.
26 Cumulative Impacts can result from individually minor but

1 collectively significant Withdrawals, Diversions and
2 Consumptive Uses taking place over a period of time.

3 Decision-Making Standard means the decision-making
4 standard established by Section 4.11 for Proposals subject to
5 management and regulation in Section 4.10.

6 Diversion means a transfer of Water from the Basin into
7 another watershed, or from the watershed of one of the Great
8 Lakes into that of another by any means of transfer, including
9 but not limited to a pipeline, canal, tunnel, aqueduct,
10 channel, modification of the direction of a water course, a
11 tanker ship, tanker truck or rail tanker but does not apply to
12 Water that is used in the Basin or a Great Lake watershed to
13 manufacture or produce a Product that is then transferred out
14 of the Basin or watershed. Divert has a corresponding meaning.

15 Environmentally Sound and Economically Feasible Water
16 Conservation Measures mean those measures, methods,
17 technologies or practices for efficient water use and for
18 reduction of water loss and waste or for reducing a Withdrawal,
19 Consumptive Use or Diversion that i) are environmentally sound,
20 ii) reflect best practices applicable to the water use sector,
21 iii) are technically feasible and available, iv) are
22 economically feasible and cost effective based on an analysis
23 that considers direct and avoided economic and environmental
24 costs and v) consider the particular facilities and processes
25 involved, taking into account the environmental impact, age of
26 equipment and facilities involved, the processes employed,

1 energy impacts and other appropriate factors.

2 Exception means a transfer of Water that is excepted under
3 Section 4.9 from the prohibition against Diversions in Section
4 4.8.

5 Exception Standard means the standard for Exceptions
6 established in Section 4.9.4.

7 Intra-Basin Transfer means the transfer of Water from the
8 watershed of one of the Great Lakes into the watershed of
9 another Great Lake.

10 Measures means any legislation, law, regulation,
11 directive, requirement, guideline, program, policy,
12 administrative practice or other procedure.

13 New or Increased Diversion means a new Diversion, an
14 increase in an existing Diversion, or the alteration of an
15 existing Withdrawal so that it becomes a Diversion.

16 New or Increased Withdrawal or Consumptive Use means a new
17 Withdrawal or Consumptive Use or an increase in an existing
18 Withdrawal or Consumptive Use.

19 Originating Party means the Party within whose
20 jurisdiction an Application or registration is made or
21 required.

22 Party means a State party to this Compact.

23 Person means a human being or a legal person, including a
24 government or a nongovernmental organization, including any
25 scientific, professional, business, non-profit, or public
26 interest organization or association that is neither

1 affiliated with, nor under the direction of a government.

2 Product means something produced in the Basin by human or
3 mechanical effort or through agricultural processes and used in
4 manufacturing, commercial or other processes or intended for
5 intermediate or end use consumers. (i) Water used as part of
6 the packaging of a Product shall be considered to be part of
7 the Product. (ii) Other than Water used as part of the
8 packaging of a Product, Water that is used primarily to
9 transport materials in or out of the Basin is not a Product or
10 part of a Product. (iii) Except as provided in (i) above, Water
11 which is transferred as part of a public or private supply is
12 not a Product or part of a Product. (iv) Water in its natural
13 state such as in lakes, rivers, reservoirs, aquifers, or water
14 basins is not a Product.

15 Proposal means a Withdrawal, Diversion or Consumptive Use
16 of Water that is subject to this Compact.

17 Province means Ontario or Québec.

18 Public Water Supply Purposes means water distributed to the
19 public through a physically connected system of treatment,
20 storage and distribution facilities serving a group of largely
21 residential customers that may also serve industrial,
22 commercial, and other institutional operators. Water Withdrawn
23 directly from the Basin and not through such a system shall not
24 be considered to be used for Public Water Supply Purposes.

25 Regional Body means the members of the Council and the
26 Premiers of Ontario and Québec or their designee as established

1 by the Agreement.

2 Regional Review means the collective review by the Regional
3 Body as described in Article 4 of this Compact.

4 Source Watershed means the watershed from which a
5 Withdrawal originates. If Water is Withdrawn directly from a
6 Great Lake or from the St. Lawrence River, then the Source
7 Watershed shall be considered to be the watershed of that Great
8 Lake or the watershed of the St. Lawrence River, respectively.
9 If Water is Withdrawn from the watershed of a stream that is a
10 direct tributary to a Great Lake or a direct tributary to the
11 St. Lawrence River, then the Source Watershed shall be
12 considered to be the watershed of that Great Lake or the
13 watershed of the St. Lawrence River, respectively, with a
14 preference to the direct tributary stream watershed from which
15 it was Withdrawn.

16 Standard of Review and Decision means the Exception
17 Standard, Decision-Making Standard and reviews as outlined in
18 Article 4 of this Compact.

19 State means one of the states of Illinois, Indiana,
20 Michigan, Minnesota, New York, Ohio or Wisconsin or the
21 Commonwealth of Pennsylvania.

22 Straddling Community means any incorporated city, town or
23 the equivalent thereof, wholly within any County that lies
24 partly or completely within the Basin, whose corporate boundary
25 existing as of the effective date of this Compact, is partly
26 within the Basin or partly within two Great Lakes watersheds.

1 Technical Review means a detailed review conducted to
2 determine whether or not a Proposal that requires Regional
3 Review under this Compact meets the Standard of Review and
4 Decision following procedures and guidelines as set out in this
5 Compact.

6 Water means ground or surface water contained within the
7 Basin.

8 Water Dependent Natural Resources means the interacting
9 components of land, Water and living organisms affected by the
10 Waters of the Basin.

11 Waters of the Basin or Basin Water means the Great Lakes
12 and all streams, rivers, lakes, connecting channels and other
13 bodies of water, including tributary groundwater, within the
14 Basin.

15 Withdrawal means the taking of water from surface water or
16 groundwater. Withdraw has a corresponding meaning.

17 Section 1.3. Findings and Purposes.

18 The legislative bodies of the respective Parties hereby
19 find and declare:

20 1. Findings:

21 a. The Waters of the Basin are precious public natural
22 resources shared and held in trust by the States;

23 b. The Waters of the Basin are interconnected and part of a
24 single hydrologic system;

25 c. The Waters of the Basin can concurrently serve multiple

1 uses. Such multiple uses include municipal, public,
2 industrial, commercial, agriculture, mining, navigation,
3 energy development and production, recreation, the
4 subsistence, economic and cultural activities of native
5 peoples, Water quality maintenance, and the maintenance of fish
6 and wildlife habitat and a balanced ecosystem. And, other
7 purposes are encouraged, recognizing that such uses are
8 interdependent and must be balanced;

9 d. Future Diversions and Consumptive Uses of Basin Water
10 resources have the potential to significantly impact the
11 environment, economy and welfare of the Great Lakes-St.
12 Lawrence River region;

13 e. Continued sustainable, accessible and adequate Water
14 supplies for the people and economy of the Basin are of vital
15 importance; and,

16 f. The Parties have a shared duty to protect, conserve,
17 restore, improve and manage the renewable but finite Waters of
18 the Basin for the use, benefit and enjoyment of all their
19 citizens, including generations yet to come. The most effective
20 means of protecting, conserving, restoring, improving and
21 managing the Basin Waters is through the joint pursuit of
22 unified and cooperative principles, policies and programs
23 mutually agreed upon, enacted and adhered to by all Parties.

24 2. Purposes:

25 a. To act together to protect, conserve, restore, improve
26 and effectively manage the Waters and Water Dependent Natural

1 Resources of the Basin under appropriate arrangements for
2 intergovernmental cooperation and consultation because current
3 lack of full scientific certainty should not be used as a
4 reason for postponing measures to protect the Basin Ecosystem;

5 b. To remove causes of present and future controversies;

6 c. To provide for cooperative planning and action by the
7 Parties with respect to such Water resources;

8 d. To facilitate consistent approaches to Water management
9 across the Basin while retaining State management authority
10 over Water management decisions within the Basin;

11 e. To facilitate the exchange of data, strengthen the
12 scientific information base upon which decisions are made and
13 engage in consultation on the potential effects of proposed
14 Withdrawals and losses on the Waters and Water Dependent
15 Natural Resources of the Basin;

16 f. To prevent significant adverse impacts of Withdrawals
17 and losses on the Basin's ecosystems and watersheds;

18 g. To promote interstate and State-Provincial comity; and,

19 h. To promote an Adaptive Management approach to the
20 conservation and management of Basin Water resources, which
21 recognizes, considers and provides adjustments for the
22 uncertainties in, and evolution of, scientific knowledge
23 concerning the Basin's Waters and Water Dependent Natural
24 Resources.

25 Section 1.4. Science.

1 Council is hereby created as a body politic and corporate, with
2 succession for the duration of this Compact, as an agency and
3 instrumentality of the governments of the respective Parties.

4 Section 2.2. Council Membership.

5 The Council shall consist of the Governors of the Parties,
6 ex officio.

7 Section 2.3. Alternates.

8 Each member of the Council shall appoint at least one
9 alternate who may act in his or her place and stead, with
10 authority to attend all meetings of the Council and with power
11 to vote in the absence of the member. Unless otherwise provided
12 by law of the Party for which he or she is appointed, each
13 alternate shall serve during the term of the member appointing
14 him or her, subject to removal at the pleasure of the member.
15 In the event of a vacancy in the office of alternate, it shall
16 be filled in the same manner as an original appointment for the
17 unexpired term only.

18 Section 2.4. Voting.

19 1. Each member is entitled to one vote on all matters that
20 may come before the Council.

21 2. Unless otherwise stated, the rule of decision shall be
22 by a simple majority.

23 3. The Council shall annually adopt a budget for each

1 fiscal year and the amount required to balance the budget shall
2 be apportioned equitably among the Parties by unanimous vote of
3 the Council. The appropriation of such amounts shall be subject
4 to such review and approval as may be required by the budgetary
5 processes of the respective Parties.

6 4. The participation of Council members from a majority of
7 the Parties shall constitute a quorum for the transaction of
8 business at any meeting of the Council.

9 Section 2.5. Organization and Procedure.

10 The Council shall provide for its own organization and
11 procedure, and may adopt rules and regulations governing its
12 meetings and transactions, as well as the procedures and
13 timeline for submission, review and consideration of Proposals
14 that come before the Council for its review and action. The
15 Council shall organize, annually, by the election of a Chair
16 and Vice Chair from among its members. Each member may appoint
17 an advisor, who may attend all meetings of the Council and its
18 committees, but shall not have voting power. The Council may
19 employ or appoint professional and administrative personnel,
20 including an Executive Director, as it may deem advisable, to
21 carry out the purposes of this Compact.

22 Section 2.6. Use of Existing Offices and Agencies.

23 It is the policy of the Parties to preserve and utilize the
24 functions, powers and duties of existing offices and agencies

1 of government to the extent consistent with this Compact.
2 Further, the Council shall promote and aid the coordination of
3 the activities and programs of the Parties concerned with Water
4 resources management in the Basin. To this end, but without
5 limitation, the Council may:

6 1. Advise, consult, contract, assist or otherwise
7 cooperate with any and all such agencies;

8 2. Employ any other agency or instrumentality of any of
9 the Parties for any purpose; and,

10 3. Develop and adopt plans consistent with the Water
11 resources plans of the Parties.

12 Section 2.7. Jurisdiction.

13 The Council shall have, exercise and discharge its
14 functions, powers and duties within the limits of the Basin.
15 Outside the Basin, it may act in its discretion, but only to
16 the extent such action may be necessary or convenient to
17 effectuate or implement its powers or responsibilities within
18 the Basin and subject to the consent of the jurisdiction
19 wherein it proposes to act.

20 Section 2.8. Status, Immunities and Privileges.

21 1. The Council, its members and personnel in their official
22 capacity and when engaged directly in the affairs of the
23 Council, its property and its assets, wherever located and by
24 whomsoever held, shall enjoy the same immunity from suit and

1 every form of judicial process as is enjoyed by the Parties,
2 except to the extent that the Council may expressly waive its
3 immunity for the purposes of any proceedings or by the terms of
4 any contract.

5 2. The property and assets of the Council, wherever located
6 and by whomsoever held, shall be considered public property and
7 shall be immune from search, requisition, confiscation,
8 expropriation or any other form of taking or foreclosure by
9 executive or legislative action.

10 3. The Council, its property and its assets, income and the
11 operations it carries out pursuant to this Compact shall be
12 immune from all taxation by or under the authority of any of
13 the Parties or any political subdivision thereof; provided,
14 however, that in lieu of property taxes the Council may make
15 reasonable payments to local taxing districts in annual amounts
16 which shall approximate the taxes lawfully assessed upon
17 similar property.

18 Section 2.9. Advisory Committees. The Council may
19 constitute and empower advisory committees, which may be
20 comprised of representatives of the public and of federal,
21 State, tribal, county and local governments, water resources
22 agencies, water-using industries and sectors, water-interest
23 groups and academic experts in related fields.

1 GENERAL POWERS AND DUTIES

2 Section 3.1. General.

3 The Waters and Water Dependent Natural Resources of the
4 Basin are subject to the sovereign right and responsibilities
5 of the Parties, and it is the purpose of this Compact to
6 provide for joint exercise of such powers of sovereignty by the
7 Council in the common interests of the people of the region, in
8 the manner and to the extent provided in this Compact. The
9 Council and the Parties shall use the Standard of Review and
10 Decision and procedures contained in or adopted pursuant to
11 this Compact as the means to exercise their authority under
12 this Compact.

13 The Council may revise the Standard of Review and Decision,
14 after consultation with the Provinces and upon unanimous vote
15 of all Council members, by regulation duly adopted in
16 accordance with Section 3.3 of this Compact and in accordance
17 with each Party's respective statutory authorities and
18 applicable procedures.

19 The Council shall identify priorities and develop plans and
20 policies relating to Basin Water resources. It shall adopt and
21 promote uniform and coordinated policies for Water resources
22 conservation and management in the Basin.

23 Section 3.2. Council Powers.

24 The Council may: plan; conduct research and collect,

1 compile, analyze, interpret, report and disseminate data on
2 Water resources and uses; forecast Water levels; conduct
3 investigations; institute court actions; design, acquire,
4 construct, reconstruct, own, operate, maintain, control, sell
5 and convey real and personal property and any interest therein
6 as it may deem necessary, useful or convenient to carry out the
7 purposes of this Compact; make contracts; receive and accept
8 such payments, appropriations, grants, gifts, loans, advances
9 and other funds, properties and services as may be transferred
10 or made available to it by any Party or by any other public or
11 private agency, corporation or individual; and, exercise such
12 other and different powers as may be delegated to it by this
13 Compact or otherwise pursuant to law, and have and exercise all
14 powers necessary or convenient to carry out its express powers
15 or which may be reasonably implied therefrom.

16 Section 3.3. Rules and Regulations.

17 1. The Council may promulgate and enforce such rules and
18 regulations as may be necessary for the implementation and
19 enforcement of this Compact. The Council may adopt by
20 regulation, after public notice and public hearing, reasonable
21 Application fees with respect to those Proposals for Exceptions
22 that are subject to Council review under Section 4.9. Any rule
23 or regulation of the Council, other than one which deals solely
24 with the internal management of the Council or its property,
25 shall be adopted only after public notice and hearing.

1 2. Each Party, in accordance with its respective statutory
2 authorities and applicable procedures, may adopt and enforce
3 rules and regulations to implement and enforce this Compact and
4 the programs adopted by such Party to carry out the management
5 programs contemplated by this Compact.

6 Section 3.4. Program Review and Findings.

7 1. Each Party shall submit a report to the Council and the
8 Regional Body detailing its Water management and conservation
9 and efficiency programs that implement this Compact. The report
10 shall set out the manner in which Water Withdrawals are managed
11 by sector, Water source, quantity or any other means, and how
12 the provisions of the Standard of Review and Decision and
13 conservation and efficiency programs are implemented. The
14 first report shall be provided by each Party one year from the
15 effective date of this Compact and thereafter every 5 years.

16 2. The Council, in cooperation with the Provinces, shall
17 review its Water management and conservation and efficiency
18 programs and those of the Parties that are established in this
19 Compact and make findings on whether the Water management
20 program provisions in this Compact are being met, and if not,
21 recommend options to assist the Parties in meeting the
22 provisions of this Compact. Such review shall take place:

23 a. 30 days after the first report is submitted by all
24 Parties; and,

25 b. Every five years after the effective date of this

1 Compact; and,

2 c. At any other time at the request of one of the
3 Parties.

4 3. As one of its duties and responsibilities, the Council
5 may recommend a range of approaches to the Parties with respect
6 to the development, enhancement and application of Water
7 management and conservation and efficiency programs to
8 implement the Standard of Review and Decision reflecting
9 improved scientific understanding of the Waters of the Basin,
10 including groundwater, and the impacts of Withdrawals on the
11 Basin Ecosystem.

12 ARTICLE 4

13 WATER MANAGEMENT AND REGULATION

14 Section 4.1. Water Resources Inventory, Registration and
15 Reporting.

16 1. Within five years of the effective date of this Compact,
17 each Party shall develop and maintain a Water resources
18 inventory for the collection, interpretation, storage,
19 retrieval exchange, and dissemination of information
20 concerning the Water resources of the Party, including, but not
21 limited to, information on the location, type, quantity, and
22 use of those resources and the location, type, and quantity of
23 Withdrawals, Diversions and Consumptive Uses. To the extent
24 feasible, the Water resources inventory shall be developed in

1 cooperation with local, State, federal, tribal and other
2 private agencies and entities, as well as the Council. Each
3 Party's agencies shall cooperate with that Party in the
4 development and maintenance of the inventory.

5 2. The Council shall assist each Party to develop a common
6 base of data regarding the management of the Water Resources of
7 the Basin and to establish systematic arrangements for the
8 exchange of those data with other States and Provinces.

9 3. To develop and maintain a compatible base of Water use
10 information, within five years of the effective date of this
11 Compact any Person who Withdraws Water in an amount of 100,000
12 gallons per day or greater average in any 30-day period
13 (including Consumptive Uses) from all sources, or Diverts Water
14 of any amount, shall register the Withdrawal or Diversion by a
15 date set by the Council unless the Person has previously
16 registered in accordance with an existing State program. The
17 Person shall register the Withdrawal or Diversion with the
18 Originating Party using a form prescribed by the Originating
19 Party that shall include, at a minimum and without limitation:
20 the name and address of the registrant and date of
21 registration; the locations and sources of the Withdrawal or
22 Diversion; the capacity of the Withdrawal or Diversion per day
23 and the amount Withdrawn or Diverted from each source; the uses
24 made of the Water; places of use and places of discharge; and,
25 such other information as the Originating Party may require.
26 All registrations shall include an estimate of the volume of

1 the Withdrawal or Diversion in terms of gallons per day average
2 in any 30-day period.

3 4. All registrants shall annually report the monthly
4 volumes of the Withdrawal, Consumptive Use and Diversion in
5 gallons to the Originating Party and any other information
6 requested by the Originating Party.

7 5. Each Party shall annually report the information
8 gathered pursuant to this Section to a Great Lakes-St. Lawrence
9 River Water use data base repository and aggregated information
10 shall be made publicly available, consistent with the
11 confidentiality requirements in Section 8.3.

12 6. Information gathered by the Parties pursuant to this
13 Section shall be used to improve the sources and applications
14 of scientific information regarding the Waters of the Basin and
15 the impacts of the Withdrawals and Diversions from various
16 locations and Water sources on the Basin Ecosystem, and to
17 better understand the role of groundwater in the Basin. The
18 Council and the Parties shall coordinate the collection and
19 application of scientific information to further develop a
20 mechanism by which individual and Cumulative Impacts of
21 Withdrawals, Consumptive Uses and Diversions shall be
22 assessed.

23 Section 4.2. Water Conservation and Efficiency Programs.

24 1. The Council commits to identify, in cooperation with the
25 Provinces, Basin-wide Water conservation and efficiency

1 objectives to assist the Parties in developing their Water
2 conservation and efficiency program. These objectives are
3 based on the goals of:

4 a. Ensuring improvement of the Waters and Water
5 Dependent Natural Resources;

6 b. Protecting and restoring the hydrologic and
7 ecosystem integrity of the Basin;

8 c. Retaining the quantity of surface water and
9 groundwater in the Basin;

10 d. Ensuring sustainable use of Waters of the Basin;
11 and,

12 e. Promoting the efficiency of use and reducing losses
13 and waste of Water.

14 2. Within two years of the effective date of this Compact,
15 each Party shall develop its own Water conservation and
16 efficiency goals and objectives consistent with the Basin-wide
17 goals and objectives, and shall develop and implement a Water
18 conservation and efficiency program, either voluntary or
19 mandatory, within its jurisdiction based on the Party's goals
20 and objectives. Each Party shall annually assess its programs
21 in meeting the Party's goals and objectives, report to the
22 Council and the Regional Body and make this annual assessment
23 available to the public.

24 3. Beginning five years after the effective date of this
25 Compact, and every five years thereafter, the Council, in
26 cooperation with the Provinces, shall review and modify as

1 appropriate the Basin-wide objectives, and the Parties shall
2 have regard for any such modifications in implementing their
3 programs. This assessment will be based on examining new
4 technologies, new patterns of Water use, new resource demands
5 and threats, and Cumulative Impact assessment under Section
6 4.15.

7 4. Within two years of the effective date of this Compact,
8 the Parties commit to promote Environmentally Sound and
9 Economically Feasible Water Conservation Measures such as:

10 a. Measures that promote efficient use of Water;

11 b. Identification and sharing of best management
12 practices and state of the art conservation and efficiency
13 technologies;

14 c. Application of sound planning principles;

15 d. Demand-side and supply-side Measures or incentives;

16 and,

17 e. Development, transfer and application of science
18 and research.

19 5. Each Party shall implement in accordance with paragraph
20 2 above a voluntary or mandatory Water conservation program for
21 all, including existing, Basin Water users. Conservation
22 programs need to adjust to new demands and the potential
23 impacts of cumulative effects and climate.

24 Section 4.3. Party Powers and Duties.

25 1. Each Party, within its jurisdiction, shall manage and

1 regulate New or Increased Withdrawals, Consumptive Uses and
2 Diversions, including Exceptions, in accordance with this
3 Compact.

4 2. Each Party shall require an Applicant to submit an
5 Application in such manner and with such accompanying
6 information as the Party shall prescribe.

7 3. No Party may approve a Proposal if the Party determines
8 that the Proposal is inconsistent with this Compact or the
9 Standard of Review and Decision or any implementing rules or
10 regulations promulgated thereunder. The Party may approve,
11 approve with modifications or disapprove any Proposal
12 depending on the Proposal's consistency with this Compact and
13 the Standard of Review and Decision.

14 4. Each Party shall monitor the implementation of any
15 approved Proposal to ensure consistency with the approval and
16 may take all necessary enforcement actions.

17 5. No Party shall approve a Proposal subject to Council or
18 Regional Review, or both, pursuant to this Compact unless it
19 shall have been first submitted to and reviewed by either the
20 Council or Regional Body, or both, and approved by the Council,
21 as applicable. Sufficient opportunity shall be provided for
22 comment on the Proposal's consistency with this Compact and the
23 Standard of Review and Decision. All such comments shall become
24 part of the Party's formal record of decision, and the Party
25 shall take into consideration any such comments received.

1 Section 4.4. Requirement for Originating Party Approval.
2 No Proposal subject to management and regulation under this
3 Compact shall hereafter be undertaken by any Person unless it
4 shall have been approved by the Originating Party.

5 Section 4.5. Regional Review.

6 1. General.

7 a. It is the intention of the Parties to participate in
8 Regional Review of Proposals with the Provinces, as described
9 in this Compact and the Agreement.

10 b. Unless the Applicant or the Originating Party otherwise
11 requests, it shall be the goal of the Regional Body to conclude
12 its review no later than 90 days after notice under Section
13 4.5.2 of such Proposal is received from the Originating Party.

14 c. Proposals for Exceptions subject to Regional Review
15 shall be submitted by the Originating Party to the Regional
16 Body for Regional Review, and where applicable, to the Council
17 for concurrent review.

18 d. The Parties agree that the protection of the integrity
19 of the Great Lakes - St. Lawrence River Basin Ecosystem shall
20 be the overarching principle for reviewing Proposals subject to
21 Regional Review, recognizing uncertainties with respect to
22 demands that may be placed on Basin Water, including
23 groundwater, levels and flows of the Great Lakes and the St.
24 Lawrence River, future changes in environmental conditions,
25 the reliability of existing data and the extent to which

1 Diversions may harm the integrity of the Basin Ecosystem.

2 e. The Originating Party shall have lead responsibility for
3 coordinating information for resolution of issues related to
4 evaluation of a Proposal, and shall consult with the Applicant
5 throughout the Regional Review Process.

6 f. A majority of the members of the Regional Body may
7 request Regional Review of a regionally significant or
8 potentially precedent setting Proposal. Such Regional Review
9 must be conducted, to the extent possible, within the time
10 frames set forth in this Section. Any such Regional Review
11 shall be undertaken only after consulting the Applicant.

12 2. Notice from Originating Party to the Regional Body.

13 a. The Originating Party shall determine if a Proposal is
14 subject to Regional Review. If so, the Originating Party shall
15 provide timely notice to the Regional Body and the public.

16 b. Such notice shall not be given unless and until all
17 information, documents and the Originating Party's Technical
18 Review needed to evaluate whether the Proposal meets the
19 Standard of Review and Decision have been provided.

20 c. An Originating Party may:

21 i. Provide notice to the Regional Body of an
22 Application, even if notification is not required; or,

23 ii. Request Regional Review of an application, even if
24 Regional Review is not required. Any such Regional Review
25 shall be undertaken only after consulting the Applicant.

26 d. An Originating Party may provide preliminary notice of a

1 potential Proposal.

2 3. Public Participation.

3 a. To ensure adequate public participation, the Regional
4 Body shall adopt procedures for the review of Proposals that
5 are subject to Regional Review in accordance with this Article.

6 b. The Regional Body shall provide notice to the public of
7 a Proposal undergoing Regional Review. Such notice shall
8 indicate that the public has an opportunity to comment in
9 writing to the Regional Body on whether the Proposal meets the
10 Standard of Review and Decision.

11 c. The Regional Body shall hold a public meeting in the
12 State or Province of the Originating Party in order to receive
13 public comment on the issue of whether the Proposal under
14 consideration meets the Standard of Review and Decision.

15 d. The Regional Body shall consider the comments received
16 before issuing a Declaration of Finding.

17 e. The Regional Body shall forward the comments it receives
18 to the Originating Party.

19 4. Technical Review.

20 a. The Originating Party shall provide the Regional Body
21 with its Technical Review of the Proposal under consideration.

22 b. The Originating Party's Technical Review shall
23 thoroughly analyze the Proposal and provide an evaluation of
24 the Proposal sufficient for a determination of whether the
25 Proposal meets the Standard of Review and Decision.

26 c. Any member of the Regional Body may conduct their own

1 Technical Review of any Proposal subject to Regional Review.

2 d. At the request of the majority of its members, the
3 Regional Body shall make such arrangements as it considers
4 appropriate for an independent Technical Review of a Proposal.

5 e. All Parties shall exercise their best efforts to ensure
6 that a Technical Review undertaken under Sections 4.5.4.c and
7 4.5.4.d does not unnecessarily delay the decision by the
8 Originating Party on the Application. Unless the Applicant or
9 the Originating Party otherwise requests, all Technical
10 Reviews shall be completed no later than 60 days after the date
11 the notice of the Proposal was given to the Regional Body.

12 5. Declaration of Finding.

13 a. The Regional Body shall meet to consider a Proposal. The
14 Applicant shall be provided with an opportunity to present the
15 Proposal to the Regional Body at such time.

16 b. The Regional Body, having considered the notice, the
17 Originating Party's Technical Review, any other independent
18 Technical Review that is made, any comments or objections
19 including the analysis of comments made by the public, First
20 Nations and federally recognized Tribes, and any other
21 information that is provided under this Compact shall issue a
22 Declaration of Finding that the Proposal under consideration:

23 i. Meets the Standard of Review and Decision;

24 ii. Does not meet the Standard of Review and Decision;

25 or,

26 iii. Would meet the Standard of Review and Decision if

1 certain conditions were met.

2 c. An Originating Party may decline to participate in a
3 Declaration of Finding made by the Regional Body.

4 d. The Parties recognize and affirm that it is preferable
5 for all members of the Regional Body to agree whether the
6 Proposal meets the Standard of Review and Decision.

7 e. If the members of the Regional Body who participate in
8 the Declaration of Finding all agree, they shall issue a
9 written Declaration of Finding with consensus.

10 f. In the event that the members cannot agree, the Regional
11 Body shall make every reasonable effort to achieve consensus
12 within 25 days.

13 g. Should consensus not be achieved, the Regional Body may
14 issue a Declaration of Finding that presents different points
15 of view and indicates each Party's conclusions.

16 h. The Regional Body shall release the Declarations of
17 Finding to the public.

18 i. The Originating Party and the Council shall consider the
19 Declaration of Finding before making a decision on the
20 Proposal.

21 Section 4.6. Proposals Subject to Prior Notice.

22 1. Beginning no later than five years of the effective date
23 of this Compact, the Originating Party shall provide all
24 Parties and the Provinces with detailed and timely notice and
25 an opportunity to comment within 90 days on any Proposal for a

1 New or Increased Consumptive Use of 5 million gallons per day
2 or greater average in any 90- day period. Comments shall
3 address whether or not the Proposal is consistent with the
4 Standard of Review and Decision. The Originating Party shall
5 provide a response to any such comment received from another
6 Party.

7 2. A Party may provide notice, an opportunity to comment
8 and a response to comments even if this is not required under
9 paragraph 1 of this Section. Any provision of such notice and
10 opportunity to comment shall be undertaken only after
11 consulting the Applicant.

12 Section 4.7. Council Actions.

13 1. Proposals for Exceptions subject to Council Review shall
14 be submitted by the Originating Party to the Council for
15 Council Review, and where applicable, to the Regional Body for
16 concurrent review.

17 2. The Council shall review and take action on Proposals in
18 accordance with this Compact and the Standard of Review and
19 Decision. The Council shall not take action on a Proposal
20 subject to Regional Review pursuant to this Compact unless the
21 Proposal shall have been first submitted to and reviewed by the
22 Regional Body. The Council shall consider any findings
23 resulting from such review.

24 Section 4.8. Prohibition of New or Increased Diversions.

1 All New or Increased Diversions are prohibited, except as
2 provided for in this Article.

3 Section 4.9. Exceptions to the Prohibition of Diversions.

4 1. Straddling Communities. A Proposal to transfer Water to
5 an area within a Straddling Community but outside the Basin or
6 outside the source Great Lake Watershed shall be excepted from
7 the prohibition against Diversions and be managed and regulated
8 by the Originating Party provided that, regardless of the
9 volume of Water transferred, all the Water so transferred shall
10 be used solely for Public Water Supply Purposes within the
11 Straddling Community, and:

12 a. All Water Withdrawn from the Basin shall be returned,
13 either naturally or after use, to the Source Watershed less an
14 allowance for Consumptive Use. No surface water or groundwater
15 from outside the Basin may be used to satisfy any portion of
16 this criterion except if it:

17 i. Is part of a water supply or wastewater treatment
18 system that combines water from inside and outside of the
19 Basin;

20 ii. Is treated to meet applicable water quality
21 discharge standards and to prevent the introduction of
22 invasive species into the Basin;

23 iii. Maximizes the portion of water returned to the
24 Source Watershed as Basin Water and minimizes the surface
25 water or groundwater from outside the Basin;

1 b. If the Proposal results from a New or Increased
2 Withdrawal of 100,000 gallons per day or greater average over
3 any 90-day period, the Proposal shall also meet the Exception
4 Standard; and,

5 c. If the Proposal results in a New or Increased
6 Consumptive Use of 5 million gallons per day or greater average
7 over any 90-day period, the Proposal shall also undergo
8 Regional Review.

9 2. Intra-Basin Transfer. A Proposal for an Intra-Basin
10 Transfer that would be considered a Diversion under this
11 Compact, and not already excepted pursuant to paragraph 1 of
12 this Section, shall be excepted from the prohibition against
13 Diversions, provided that:

14 a. If the Proposal results from a New or Increased
15 Withdrawal less than 100,000 gallons per day average over any
16 90-day period, the Proposal shall be subject to management and
17 regulation at the discretion of the Originating Party.

18 b. If the Proposal results from a New or Increased
19 Withdrawal 100,000 gallons per day or greater average over any
20 90-day period and if the Consumptive Use resulting from the
21 Withdrawal is less than 5 million gallons per day average over
22 any 90-day period:

23 i. The Proposal shall meet the Exception Standard and
24 be subject to management and regulation by the Originating
25 Party, except that the Water may be returned to another
26 Great Lake watershed rather than the Source Watershed;

1 ii. The Applicant shall demonstrate that there is no
2 feasible, cost effective, and environmentally sound water
3 supply alternative within the Great Lake watershed to which
4 the Water will be transferred, including conservation of
5 existing water supplies; and,

6 iii. The Originating Party shall provide notice to the
7 other Parties prior to making any decision with respect to
8 the Proposal.

9 c. If the Proposal results in a New or Increased
10 Consumptive Use of 5 million gallons per day or greater average
11 over any 90-day period:

12 i. The Proposal shall be subject to management and
13 regulation by the Originating Party and shall meet the
14 Exception Standard, ensuring that Water Withdrawn shall be
15 returned to the Source Watershed;

16 ii. The Applicant shall demonstrate that there is no
17 feasible, cost effective, and environmentally sound water
18 supply alternative within the Great Lake watershed to which
19 the Water will be transferred, including conservation of
20 existing water supplies;

21 iii. The Proposal undergoes Regional Review; and,

22 iv. The Proposal is approved by the Council. Council
23 approval shall be given unless one or more Council Members
24 vote to disapprove.

25 3. Straddling Counties. A Proposal to transfer Water to a
26 Community within a Straddling County that would be considered a

1 Diversion under this Compact shall be excepted from the
2 prohibition against Diversions, provided that it satisfies all
3 of the following conditions:

4 a. The Water shall be used solely for the Public Water
5 Supply Purposes of the Community within a Straddling County
6 that is without adequate supplies of potable water;

7 b. The Proposal meets the Exception Standard, maximizing
8 the portion of water returned to the Source Watershed as Basin
9 Water and minimizing the surface water or groundwater from
10 outside the Basin;

11 c. The Proposal shall be subject to management and
12 regulation by the Originating Party, regardless of its size;

13 d. There is no reasonable water supply alternative within
14 the basin in which the community is located, including
15 conservation of existing water supplies;

16 e. Caution shall be used in determining whether or not the
17 Proposal meets the conditions for this Exception. This
18 Exception should not be authorized unless it can be shown that
19 it will not endanger the integrity of the Basin Ecosystem;

20 f. The Proposal undergoes Regional Review; and,

21 g. The Proposal is approved by the Council. Council
22 approval shall be given unless one or more Council Members vote
23 to disapprove.

24 A Proposal must satisfy all of the conditions listed above.
25 Further, substantive consideration will also be given to
26 whether or not the Proposal can provide sufficient

1 scientifically based evidence that the existing water supply is
2 derived from groundwater that is hydrologically interconnected
3 to Waters of the Basin.

4 4. Exception Standard. Proposals subject to management and
5 regulation in this Section shall be declared to meet this
6 Exception Standard and may be approved as appropriate only when
7 the following criteria are met:

8 a. The need for all or part of the proposed Exception
9 cannot be reasonably avoided through the efficient use and
10 conservation of existing water supplies;

11 b. The Exception will be limited to quantities that are
12 considered reasonable for the purposes for which it is
13 proposed;

14 c. All Water Withdrawn shall be returned, either naturally
15 or after use, to the Source Watershed less an allowance for
16 Consumptive Use. No surface water or groundwater from the
17 outside the Basin may be used to satisfy any portion of this
18 criterion except if it:

19 i. Is part of a water supply or wastewater treatment
20 system that combines water from inside and outside of the
21 Basin;

22 ii. Is treated to meet applicable water quality
23 discharge standards and to prevent the introduction of
24 invasive species into the Basin;

25 d. The Exception will be implemented so as to ensure that
26 it will result in no significant individual or cumulative

1 adverse impacts to the quantity or quality of the Waters and
2 Water Dependent Natural Resources of the Basin with
3 consideration given to the potential Cumulative Impacts of any
4 precedent-setting consequences associated with the Proposal;

5 e. The Exception will be implemented so as to incorporate
6 Environmentally Sound and Economically Feasible Water
7 Conservation Measures to minimize Water Withdrawals or
8 Consumptive Use;

9 f. The Exception will be implemented so as to ensure that
10 it is in compliance with all applicable municipal, State and
11 federal laws as well as regional interstate and international
12 agreements, including the Boundary Waters Treaty of 1909; and,

13 g. All other applicable criteria in Section 4.9 have also
14 been met.

15 Section 4.10. Management and Regulation of New or Increased
16 Withdrawals and Consumptive Uses.

17 1. Within five years of the effective date of this Compact,
18 each Party shall create a program for the management and
19 regulation of New or Increased Withdrawals and Consumptive Uses
20 by adopting and implementing Measures consistent with the
21 Decision-Making Standard. Each Party, through a considered
22 process, shall set and may modify threshold levels for the
23 regulation of New or Increased Withdrawals in order to assure
24 an effective and efficient Water management program that will
25 ensure that uses overall are reasonable, that Withdrawals

1 overall will not result in significant impacts to the Waters
2 and Water Dependent Natural Resources of the Basin, determined
3 on the basis of significant impacts to the physical, chemical,
4 and biological integrity of Source Watersheds, and that all
5 other objectives of the Compact are achieved. Each Party may
6 determine the scope and thresholds of its program, including
7 which New or Increased Withdrawals and Consumptive Uses will be
8 subject to the program.

9 2. Any Party that fails to set threshold levels that comply
10 with Section 4.10.1 any time before 10 years after the
11 effective date of this Compact shall apply a threshold level
12 for management and regulation of all New or Increased
13 Withdrawals of 100,000 gallons per day or greater average in
14 any 90 day period.

15 3. The Parties intend programs for New or Increased
16 Withdrawals and Consumptive Uses to evolve as may be necessary
17 to protect Basin Waters. Pursuant to Section 3.4, the Council,
18 in cooperation with the Provinces, shall periodically assess
19 the Water management programs of the Parties. Such assessments
20 may produce recommendations for the strengthening of the
21 programs, including without limitation, establishing lower
22 thresholds for management and regulation in accordance with the
23 Decision-Making Standard.

24 Section 4.11. Decision-Making Standard.

25 Proposals subject to management and regulation in Section

1 4.10 shall be declared to meet this Decision-Making Standard
2 and may be approved as appropriate only when the following
3 criteria are met:

4 1. All Water Withdrawn shall be returned, either naturally
5 or after use, to the Source Watershed less an allowance for
6 Consumptive Use;

7 2. The Withdrawal or Consumptive Use will be implemented so
8 as to ensure that the Proposal will result in no significant
9 individual or cumulative adverse impacts to the quantity or
10 quality of the Waters and Water Dependent Natural Resources and
11 the applicable Source Watershed;

12 3. The Withdrawal or Consumptive Use will be implemented so
13 as to incorporate Environmentally Sound and Economically
14 Feasible Water Conservation Measures;

15 4. The Withdrawal or Consumptive Use will be implemented so
16 as to ensure that it is in compliance with all applicable
17 municipal, State and federal laws as well as regional
18 interstate and international agreements, including the
19 Boundary Waters Treaty of 1909;

20 5. The proposed use is reasonable, based upon a
21 consideration of the following factors:

22 a. Whether the proposed Withdrawal or Consumptive Use
23 is planned in a fashion that provides for efficient use of
24 the water, and will avoid or minimize the waste of Water;

25 b. If the Proposal is for an increased Withdrawal or
26 Consumptive use, whether efficient use is made of existing

1 water supplies;

2 c. The balance between economic development, social
3 development and environmental protection of the proposed
4 Withdrawal and use and other existing or planned
5 withdrawals and water uses sharing the water source;

6 d. The supply potential of the water source,
7 considering quantity, quality, and reliability and safe
8 yield of hydrologically interconnected water sources;

9 e. The probable degree and duration of any adverse
10 impacts caused or expected to be caused by the proposed
11 Withdrawal and use under foreseeable conditions, to other
12 lawful consumptive or non-consumptive uses of water or to
13 the quantity or quality of the Waters and Water Dependent
14 Natural Resources of the Basin, and the proposed plans and
15 arrangements for avoidance or mitigation of such impacts;
16 and,

17 f. If a Proposal includes restoration of hydrologic
18 conditions and functions of the Source Watershed, the Party
19 may consider that.

20 Section 4.12. Applicability.

21 1. Minimum Standard. This Standard of Review and Decision
22 shall be used as a minimum standard. Parties may impose a more
23 restrictive decision-making standard for Withdrawals under
24 their authority. It is also acknowledged that although a
25 Proposal meets the Standard of Review and Decision it may not

1 be approved under the laws of the Originating Party that has
2 implemented more restrictive Measures.

3 2. Baseline.

4 a. To establish a baseline for determining a New or
5 Increased Diversion, Consumptive Use or Withdrawal, each Party
6 shall develop either or both of the following lists for their
7 jurisdiction:

8 i. A list of existing Withdrawal approvals as of the
9 effective date of the Compact;

10 ii. A list of the capacity of existing systems as of
11 the effective date of this Compact. The capacity of the
12 existing systems should be presented in terms of Withdrawal
13 capacity, treatment capacity, distribution capacity, or
14 other capacity limiting factors. The capacity of the
15 existing systems must represent the state of the systems.
16 Existing capacity determinations shall be based upon
17 approval limits or the most restrictive capacity
18 information.

19 b. For all purposes of this Compact, volumes of Diversions,
20 Consumptive Uses, or Withdrawals of Water set forth in the
21 list(s) prepared by each Party in accordance with this Section,
22 shall constitute the baseline volume.

23 c. The list(s) shall be furnished to the Regional Body and
24 the Council within one year of the effective date of this
25 Compact.

26 3. Timing of Additional Applications. Applications for New

1 or Increased Withdrawals, Consumptive Uses or Exceptions shall
2 be considered cumulatively within ten years of any application.

3 4. Change of Ownership. Unless a new owner proposes a
4 project that shall result in a Proposal for a New or Increased
5 Diversion or Consumptive Use subject to Regional Review or
6 Council approval, the change of ownership in and of itself
7 shall not require Regional Review or Council approval.

8 5. Groundwater. The Basin surface water divide shall be
9 used for the purpose of managing and regulating New or
10 Increased Diversions, Consumptive Uses or Withdrawals of
11 surface water and groundwater.

12 6. Withdrawal Systems. The total volume of surface water
13 and groundwater resources that supply a common distribution
14 system shall determine the volume of a Withdrawal, Consumptive
15 Use or Diversion.

16 7. Connecting Channels. The watershed of each Great Lake
17 shall include its upstream and downstream connecting channels.

18 8. Transmission in Water Lines. Transmission of Water
19 within a line that extends outside the Basin as it conveys
20 Water from one point to another within the Basin shall not be
21 considered a Diversion if none of the Water is used outside the
22 Basin.

23 9. Hydrologic Units. The Lake Michigan and Lake Huron
24 watersheds shall be considered to be a single hydrologic unit
25 and watershed.

26 10. Bulk Water Transfer. A Proposal to Withdraw Water and

1 to remove it from the Basin in any container greater than 5.7
2 gallons shall be treated under this Compact in the same manner
3 as a Proposal for a Diversion. Each Party shall have the
4 discretion, within its jurisdiction, to determine the
5 treatment of Proposals to Withdraw Water and to remove it from
6 the Basin in any container of 5.7 gallons or less.

7 Section 4.13. Exemptions.

8 Withdrawals from the Basin for the following purposes are
9 exempt from the requirements of Article 4.

10 1. To supply vehicles, including vessels and aircraft,
11 whether for the needs of the persons or animals being
12 transported or for ballast or other needs related to the
13 operation of the vehicles.

14 2. To use in a non-commercial project on a short-term basis
15 for firefighting, humanitarian, or emergency response
16 purposes.

17 Section 4.14. U.S. Supreme Court Decree: Wisconsin et al.
18 v. Illinois et al.

19 1. Notwithstanding any terms of this Compact to the
20 contrary, with the exception of Paragraph 5 of this Section,
21 current, New or Increased Withdrawals, Consumptive Uses and
22 Diversions of Basin Water by the State of Illinois shall be
23 governed by the terms of the United States Supreme Court decree
24 in Wisconsin et al. v. Illinois et al. and shall not be subject

1 to the terms of this Compact nor any rules or regulations
2 promulgated pursuant to this Compact. This means that, with the
3 exception of Paragraph 5 of this Section, for purposes of this
4 Compact, current, New or Increased Withdrawals, Consumptive
5 Uses and Diversions of Basin Water within the State of Illinois
6 shall be allowed unless prohibited by the terms of the United
7 States Supreme Court decree in Wisconsin et al. v. Illinois et
8 al.

9 2. The Parties acknowledge that the United States Supreme
10 Court decree in Wisconsin et al. v. Illinois et al. shall
11 continue in full force and effect, that this Compact shall not
12 modify any terms thereof, and that this Compact shall grant the
13 parties no additional rights, obligations, remedies or
14 defenses thereto. The Parties specifically acknowledge that
15 this Compact shall not prohibit or limit the State of Illinois
16 in any manner from seeking additional Basin Water as allowed
17 under the terms of the United States Supreme Court decree in
18 Wisconsin et al. v. Illinois et al., any other party from
19 objecting to any request by the State of Illinois for
20 additional Basin Water under the terms of said decree, or any
21 party from seeking any other type of modification to said
22 decree. If an application is made by any party to the Supreme
23 Court of the United States to modify said decree, the Parties
24 to this Compact who are also parties to the decree shall seek
25 formal input from the Canadian Provinces of Ontario and Québec,
26 with respect to the proposed modification, use best efforts to

1 facilitate the appropriate participation of said Provinces in
2 the proceedings to modify the decree, and shall not
3 unreasonably impede or restrict such participation.

4 3. With the exception of Paragraph 5 of this Section,
5 because current, New or Increased Withdrawals, Consumptive
6 Uses and Diversions of Basin Water by the State of Illinois are
7 not subject to the terms of this Compact, the State of Illinois
8 is prohibited from using any term of this Compact, including
9 Section 4.9, to seek New or Increased Withdrawals, Consumptive
10 Uses or Diversions of Basin Water.

11 4. With the exception of Paragraph 5 of this Section,
12 because Sections 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 4.11,
13 4.12 (Paragraphs 1, 2, 3, 4, 6 and 10 only), and 4.13 of this
14 Compact all relate to current, New or Increased Withdrawals,
15 Consumptive Uses and Diversions of Basin Waters, said
16 provisions do not apply to the State of Illinois. All other
17 provisions of this Compact not listed in the preceding sentence
18 shall apply to the State of Illinois, including the Water
19 Conservation Programs provision of Section 4.2.

20 5. In the event of a Proposal for a Diversion of Basin
21 Water for use outside the territorial boundaries of the Parties
22 to this Compact, decisions by the State of Illinois regarding
23 such a Proposal would be subject to all terms of this Compact,
24 except Paragraphs 1, 3 and 4 of this Section.

25 6. For purposes of the State of Illinois' participation in
26 this Compact, the entirety of this Section 4.14 is necessary

1 for the continued implementation of this Compact and, if
2 severed, this Compact shall no longer be binding on or
3 enforceable by or against the State of Illinois.

4 Section 4.15. Assessment of Cumulative Impacts.

5 1. The Parties in cooperation with the Provinces shall
6 collectively conduct within the Basin, on a Lake watershed and
7 St. Lawrence River Basin basis, a periodic assessment of the
8 Cumulative Impacts of Withdrawals, Diversions and Consumptive
9 Uses from the Waters of the Basin, every 5 years or each time
10 the incremental Basin Water losses reach 50 million gallons per
11 day average in any 90-day period in excess of the quantity at
12 the time of the most recent assessment, whichever comes first,
13 or at the request of one or more of the Parties. The assessment
14 shall form the basis for a review of the Standard of Review and
15 Decision, Council and Party regulations and their application.
16 This assessment shall:

17 a. Utilize the most current and appropriate guidelines
18 for such a review, which may include but not be limited to
19 Council on Environmental Quality and Environment Canada
20 guidelines;

21 b. Give substantive consideration to climate change or
22 other significant threats to Basin Waters and take into
23 account the current state of scientific knowledge, or
24 uncertainty, and appropriate Measures to exercise caution
25 in cases of uncertainty if serious damage may result;

1 c. Consider adaptive management principles and
2 approaches, recognizing, considering and providing
3 adjustments for the uncertainties in, and evolution of
4 science concerning the Basin's water resources, watersheds
5 and ecosystems, including potential changes to Basin-wide
6 processes, such as lake level cycles and climate.

7 2. The Parties have the responsibility of conducting this
8 Cumulative Impact assessment. Applicants are not required to
9 participate in this assessment.

10 3. Unless required by other statutes, Applicants are not
11 required to conduct a separate cumulative impact assessment in
12 connection with an Application but shall submit information
13 about the potential impacts of a Proposal to the quantity or
14 quality of the Waters and Water Dependent Natural Resources of
15 the applicable Source Watershed. An Applicant may, however,
16 provide an analysis of how their Proposal meets the no
17 significant adverse Cumulative Impact provision of the
18 Standard of Review and Decision.

19 ARTICLE 5

20 TRIBAL CONSULTATION

21 Section 5.1. Consultation with Tribes

22 1. In addition to all other opportunities to comment
23 pursuant to Section 6.2, appropriate consultations shall occur
24 with federally recognized Tribes in the Originating Party for

1 all Proposals subject to Council or Regional Review pursuant to
2 this Compact. Such consultations shall be organized in the
3 manner suitable to the individual Proposal and the laws and
4 policies of the Originating Party.

5 2. All federally recognized Tribes within the Basin shall
6 receive reasonable notice indicating that they have an
7 opportunity to comment in writing to the Council or the
8 Regional Body, or both, and other relevant organizations on
9 whether the Proposal meets the requirements of the Standard of
10 Review and Decision when a Proposal is subject to Regional
11 Review or Council approval. Any notice from the Council shall
12 inform the Tribes of any meeting or hearing that is to be held
13 under Section 6.2 and invite them to attend. The Parties and
14 the Council shall consider the comments received under this
15 Section before approving, approving with modifications or
16 disapproving any Proposal subject to Council or Regional
17 Review.

18 3. In addition to the specific consultation mechanisms
19 described above, the Council shall seek to establish mutually
20 agreed upon mechanisms or processes to facilitate dialogue
21 with, and input from federally recognized Tribes on matters to
22 be dealt with by the Council; and, the Council shall seek to
23 establish mechanisms and processes with federally recognized
24 Tribes designed to facilitate on-going scientific and
25 technical interaction and data exchange regarding matters
26 falling within the scope of this Compact. This may include

1 participation of tribal representatives on advisory committees
2 established under this Compact or such other processes that are
3 mutually agreed upon with federally recognized Tribes
4 individually or through duly-authorized intertribal agencies
5 or bodies.

6 ARTICLE 6

7 PUBLIC PARTICIPATION

8 Section 6.1. Meetings, Public Hearings and Records.

9 1. The Parties recognize the importance and necessity of
10 public participation in promoting management of the Water
11 Resources of the Basin. Consequently, all meetings of the
12 Council shall be open to the public, except with respect to
13 issues of personnel.

14 2. The minutes of the Council shall be a public record open
15 to inspection at its offices during regular business hours.

16 Section 6.2. Public Participation.

17 It is the intent of the Council to conduct public
18 participation processes concurrently and jointly with
19 processes undertaken by the Parties and through Regional
20 Review. To ensure adequate public participation, each Party or
21 the Council shall ensure procedures for the review of Proposals
22 subject to the Standard of Review and Decision consistent with
23 the following requirements:

1 1. Provide public notification of receipt of all
2 Applications and a reasonable opportunity for the public to
3 submit comments before Applications are acted upon.

4 2. Assure public accessibility to all documents
5 relevant to an Application, including public comment
6 received.

7 3. Provide guidance on standards for determining
8 whether to conduct a public meeting or hearing for an
9 Application, time and place of such a meeting(s) or
10 hearing(s), and procedures for conducting of the same.

11 4. Provide the record of decision for public
12 inspection including comments, objections, responses and
13 approvals, approvals with conditions and disapprovals.

14 ARTICLE 7

15 DISPUTE RESOLUTION AND ENFORCEMENT

16 Section 7.1. Good Faith Implementation.

17 Each of the Parties pledges to support implementation of
18 all provisions of this Compact, and covenants that its officers
19 and agencies shall not hinder, impair, or prevent any other
20 Party carrying out any provision of this Compact.

21 Section 7.2. Alternative Dispute Resolution.

22 1. Desiring that this Compact be carried out in full, the
23 Parties agree that disputes between the Parties regarding

1 interpretation, application and implementation of this Compact
2 shall be settled by alternative dispute resolution.

3 2. The Council, in consultation with the Provinces, shall
4 provide by rule procedures for the resolution of disputes
5 pursuant to this section.

6 Section 7.3. Enforcement.

7 1. Any Person aggrieved by any action taken by the Council
8 pursuant to the authorities contained in this Compact shall be
9 entitled to a hearing before the Council. Any Person aggrieved
10 by a Party action shall be entitled to a hearing pursuant to
11 the relevant Party's administrative procedures and laws. After
12 exhaustion of such administrative remedies, (i) any aggrieved
13 Person shall have the right to judicial review of a Council
14 action in the United States District Courts for the District of
15 Columbia or the District Court in which the Council maintains
16 offices, provided such action is commenced within 90 days; and,
17 (ii) any aggrieved Person shall have the right to judicial
18 review of a Party's action in the relevant Party's court of
19 competent jurisdiction, provided that an action or proceeding
20 for such review is commenced within the time frames provided
21 for by the Party's law. For the purposes of this paragraph, a
22 State or Province is deemed to be an aggrieved Person with
23 respect to any Party action pursuant to this Compact.

24 2. a. Any Party or the Council may initiate actions to
25 compel compliance with the provisions of this Compact, and the

1 rules and regulations promulgated hereunder by the Council.
2 Jurisdiction over such actions is granted to the court of the
3 relevant Party, as well as the United States District Courts
4 for the District of Columbia and the District Court in which
5 the Council maintains offices. The remedies available to any
6 such court shall include, but not be limited to, equitable
7 relief and civil penalties.

8 b. Each Party may issue orders within its respective
9 jurisdiction and may initiate actions to compel compliance with
10 the provisions of its respective statutes and regulations
11 adopted to implement the authorities contemplated by this
12 Compact in accordance with the provisions of the laws adopted
13 in each Party's jurisdiction.

14 3. Any aggrieved Person, Party or the Council may commence
15 a civil action in the relevant Party's courts and
16 administrative systems to compel any Person to comply with this
17 Compact should any such Person, without approval having been
18 given, undertake a New or Increased Withdrawal, Consumptive Use
19 or Diversion that is prohibited or subject to approval pursuant
20 to this Compact.

21 a. No action under this subsection may be commenced if:

22 i. The Originating Party or Council approval for the
23 New or Increased Withdrawal, Consumptive Use or Diversion
24 has been granted; or,

25 ii. The Originating Party or Council has found that the
26 New or Increased Withdrawal, Consumptive Use or Diversion

1 is not subject to approval pursuant to this Compact.

2 b. No action under this subsection may be commenced unless:

3 i. A Person commencing such action has first given 60
4 days prior notice to the Originating Party, the Council and
5 Person alleged to be in noncompliance; and,

6 ii. Neither the Originating Party nor the Council has
7 commenced and is diligently prosecuting appropriate
8 enforcement actions to compel compliance with this
9 Compact.

10 The available remedies shall include equitable relief, and
11 the prevailing or substantially prevailing party may recover
12 the costs of litigation, including reasonable attorney and
13 expert witness fees, whenever the court determines that such an
14 award is appropriate.

15 4. Each of the Parties may adopt provisions providing
16 additional enforcement mechanisms and remedies including
17 equitable relief and civil penalties applicable within its
18 jurisdiction to assist in the implementation of this Compact.

19 ARTICLE 8

20 ADDITIONAL PROVISIONS

21 Section 8.1. Effect on Existing Rights.

22 1. Nothing in this Compact shall be construed to affect,
23 limit, diminish or impair any rights validly established and
24 existing as of the effective date of this Compact under State

1 or federal law governing the Withdrawal of Waters of the Basin.

2 2. Nothing contained in this Compact shall be construed as
3 affecting or intending to affect or in any way to interfere
4 with the law of the respective Parties relating to common law
5 Water rights.

6 3. Nothing in this Compact is intended to abrogate or
7 derogate from treaty rights or rights held by any Tribe
8 recognized by the federal government of the United States based
9 upon its status as a Tribe recognized by the federal government
10 of the United States.

11 4. An approval by a Party or the Council under this Compact
12 does not give any property rights, nor any exclusive
13 privileges, nor shall it be construed to grant or confer any
14 right, title, easement, or interest in, to or over any land
15 belonging to or held in trust by a Party; neither does it
16 authorize any injury to private property or invasion of private
17 rights, nor infringement of federal, State or local laws or
18 regulations; nor does it obviate the necessity of obtaining
19 federal assent when necessary.

20 Section 8.2. Relationship to Agreements Concluded by the
21 United States of America.

22 1. Nothing in this Compact is intended to provide nor shall
23 be construed to provide, directly or indirectly, to any Person
24 any right, claim or remedy under any treaty or international
25 agreement nor is it intended to derogate any right, claim, or

1 remedy that already exists under any treaty or international
2 agreement.

3 2. Nothing in this Compact is intended to infringe nor
4 shall be construed to infringe upon the treaty power of the
5 United States of America, nor shall any term hereof be
6 construed to alter or amend any treaty or term thereof that has
7 been or may hereafter be executed by the United States of
8 America.

9 3. Nothing in this Compact is intended to affect nor shall
10 be construed to affect the application of the Boundary Waters
11 Treaty of 1909 whose requirements continue to apply in addition
12 to the requirements of this Compact.

13 Section 8.3. Confidentiality.

14 1. Nothing in this Compact requires a Party to breach
15 confidentiality obligations or requirements prohibiting
16 disclosure, or to compromise security of commercially
17 sensitive or proprietary information.

18 2. A Party may take measures, including but not limited to
19 deletion and redaction, deemed necessary to protect any
20 confidential, proprietary or commercially sensitive
21 information when distributing information to other Parties.
22 The Party shall summarize or paraphrase any such information in
23 a manner sufficient for the Council to exercise its authorities
24 contained in this Compact.

1 Section 8.4. Additional Laws.

2 Nothing in this Compact shall be construed to repeal,
3 modify or qualify the authority of any Party to enact any
4 legislation or enforce any additional conditions and
5 restrictions regarding the management and regulation of Waters
6 within its jurisdiction.

7 Section 8.5. Amendments and Supplements.

8 The provisions of this Compact shall remain in full force
9 and effect until amended by action of the governing bodies of
10 the Parties and consented to and approved by any other
11 necessary authority in the same manner as this Compact is
12 required to be ratified to become effective.

13 Section 8.6. Severability.

14 Should a court of competent jurisdiction hold any part of
15 this Compact to be void or unenforceable, it shall be
16 considered severable from those portions of the Compact capable
17 of continued implementation in the absence of the voided
18 provisions. All other provisions capable of continued
19 implementation shall continue in full force and effect.

20 Section 8.7. Duration of Compact and Termination. Once
21 effective, the Compact shall continue in force and remain
22 binding upon each and every Party unless terminated.

23 This Compact may be terminated at any time by a majority

1 vote of the Parties. In the event of such termination, all
2 rights established under it shall continue unimpaired.

3 ARTICLE 9

4 EFFECTUATION

5 Section 9.1. Repealer.

6 All acts and parts of acts inconsistent with this act are
7 to the extent of such inconsistency hereby repealed.

8 Section 9.2. Effectuation by Chief Executive.

9 The Governor is authorized to take such action as may be
10 necessary and proper in his or her discretion to effectuate the
11 Compact and the initial organization and operation thereunder.

12 Section 9.3. Entire Agreement.

13 The Parties consider this Compact to be complete and an
14 integral whole. Each provision of this Compact is considered
15 material to the entire Compact, and failure to implement or
16 adhere to any provision may be considered a material breach.
17 Unless otherwise noted in this Compact, any change or amendment
18 made to the Compact by any Party in its implementing
19 legislation or by the U.S. Congress when giving its consent to
20 this Compact is not considered effective unless concurred in by
21 all Parties.

1 Section 9.4. Effective Date and Execution.

2 This Compact shall become binding and effective when
3 ratified through concurring legislation by the states of
4 Illinois, Indiana, Michigan, Minnesota, New York, Ohio and
5 Wisconsin and the Commonwealth of Pennsylvania and consented to
6 by the Congress of the United States. This Compact shall be
7 signed and sealed in nine identical original copies by the
8 respective chief executives of the signatory Parties. One such
9 copy shall be filed with the Secretary of State of each of the
10 signatory Parties or in accordance with the laws of the state
11 in which the filing is made, and one copy shall be filed and
12 retained in the archives of the Council upon its organization.
13 The signatures shall be affixed and attested under the
14 following form:

15 In Witness Whereof, and in evidence of the adoption and
16 enactment into law of this Compact by the legislatures of
17 the signatory parties and consent by the Congress of the
18 United States, the respective Governors do hereby, in
19 accordance with the authority conferred by law, sign this
20 Compact in nine duplicate original copies, attested by the
21 respective Secretaries of State, and have caused the seals
22 of the respective states to be hereunto affixed this ____
23 day of (month), (year).".

24 Section 900. Administrator. The Governor, ex officio, is
25 the compact administrator. The Governor shall receive copies of

1 all agreements entered into by the State or its political
2 subdivisions and other states or political subdivisions;
3 consult with, advise, and aid those governmental units in the
4 formulation of such agreements; make any recommendation to the
5 General Assembly, legislatures of other states, and
6 governmental agencies and units as he or she deems desirable to
7 effectuate the purposes of this compact and consult and
8 cooperate with the compact administrators of other party
9 states.

10 Section 905. Enforcement. The Department of Natural
11 Resources and any other appropriate State agency and officer
12 shall, at the direction of the Governor, enforce this compact
13 and do all things appropriate to effect its purpose and intent
14 that is within their respective jurisdiction.

15 Section 999. Effective date. This Act takes effect upon
16 becoming law.