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Committee**

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Representative Dolan

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Otterman, J., Sayre, Sears, Setzer, Stewart, D., Stewart, J., Yates
Senators Niehaus, Spada, Schaffer, Goodman, Miller, D., Morano, Mason**

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A B I L L

To enact sections 1522.01, 1522.02, 1522.03, 1522.04, 1
1522.05, 1522.06, 1522.07, and 1522.08 of the 2
Revised Code to ratify the Great Lakes-St. 3
Lawrence River Basin Water Resources Compact and 4
to establish related requirements. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1522.01, 1522.02, 1522.03, 1522.04, 6
1522.05, 1522.06, 1522.07, and 1522.08 of the Revised Code be 7
enacted to read as follows: 8

Sec. 1522.01. The "great lakes-st. Lawrence river basin water 9
resources compact," which has been negotiated by representatives 10

of this state and the states of Illinois, Indiana, Michigan, 11
Minnesota, New York, and Wisconsin and the commonwealth of 12
Pennsylvania, is hereby ratified, enacted into law, and entered 13
into by this state as a party to it as follows: 14

AGREEMENT 15

Section 1. The states of Illinois, Indiana, Michigan, Minnesota, 16
New York, Ohio and Wisconsin and the Commonwealth of Pennsylvania 17
hereby solemnly covenant and agree with each other, upon enactment 18
of concurrent legislation by the respective state legislatures and 19
consent by the Congress of the United States as follows: 20

GREAT LAKES-ST. LAWRENCE RIVER BASIN WATER RESOURCES COMPACT 21

ARTICLE 1 22

SHORT TITLE, DEFINITIONS, PURPOSES AND DURATION 23

Section 1.1. Short Title. 24

This act shall be known and may be cited as the "Great Lakes-St. 25
Lawrence River Basin Water Resources Compact." 26

Section 1.2. Definitions. 27

For the purposes of this Compact, and of any supplemental or 28
concurring legislation enacted pursuant thereto, except as may be 29
otherwise required by the context: 30

Adaptive Management means a Water resources management system that 31
provides a systematic process for evaluation, monitoring and 32
learning from the outcomes of operational programs and adjustment 33
of policies, plans and programs based on experience and the 34
evolution of scientific knowledge concerning Water resources and 35
Water Dependent Natural Resources. 36

Agreement means the Great Lakes-St. Lawrence River Basin 37
Sustainable Water Resources Agreement. 38

Applicant means a Person who is required to submit a Proposal that 39
is subject to management and regulation under this Compact. 40

Application has a corresponding meaning. 41

Basin or Great Lakes-St. Lawrence River Basin means the watershed 42
of the Great Lakes and the St. Lawrence River upstream from 43
Trois-Rivieres, Quebec within the jurisdiction of the Parties. 44

Basin Ecosystem or Great Lakes-St. Lawrence River Basin Ecosystem 45
means the interacting components of air, land, Water and living 46
organisms, including humankind, within the Basin. 47

Community within a Straddling County means any incorporated city, 48
town or the equivalent thereof, that is located outside the Basin 49
but wholly within a County that lies partly within the Basin and 50
that is not a Straddling Community. 51

Compact means this Compact. 52

Consumptive Use means that portion of the Water Withdrawn or 53
withheld from the Basin that is lost or otherwise not returned to 54
the Basin due to evaporation, incorporation into Products or other 55
processes. 56

Council means the Great Lakes-St. Lawrence River Basin Water 57
Resources Council, created by this Compact. 58

Council Review means the collective review by the Council members 59
as described in Article 4 of this Compact. 60

County means the largest territorial division for local government 61
in a State. The County boundaries shall be defined as those 62
boundaries that exist as of December 13, 2005. 63

Cumulative Impacts mean the impact on the Basin Ecosystem that 64
results from incremental effects of all aspects of a Withdrawal, 65
Diversion or Consumptive Use in addition to other past, present 66
and reasonably foreseeable future Withdrawals, Diversions and 67
Consumptive Uses regardless of who undertakes the other 68
Withdrawals, Diversions and Consumptive Uses. Cumulative Impacts 69
can result from individually minor but collectively significant 70

Withdrawals, Diversions and Consumptive Uses taking place over a 71
period of time. 72

Decision-Making Standard means the decision-making standard 73
established by Section 4.11 for Proposals subject to management 74
and regulation in Section 4.10. 75

Diversions means a transfer of Water from the Basin into another 76
watershed, or from the watershed of one of the Great Lakes into 77
that of another by any means of transfer, including but not 78
limited to a pipeline, canal, tunnel, aqueduct, channel, 79
modification of the direction of a water course, a tanker ship, 80
tanker truck or rail tanker but does not apply to Water that is 81
used in the Basin or a Great Lake watershed to manufacture or 82
produce a Product that is then transferred out of the Basin or 83
watershed. Divert has a corresponding meaning. 84

Environmentally Sound and Economically Feasible Water Conservation 85
Measures mean those measures, methods, technologies or practices 86
for efficient water use and for reduction of water loss and waste 87
or for reducing a Withdrawal, Consumptive Use or Diversion that i) 88
are environmentally sound, ii) reflect best practices applicable 89
to the water use sector, iii) are technically feasible and 90
available, iv) are economically feasible and cost effective based 91
on an analysis that considers direct and avoided economic and 92
environmental costs and v) consider the particular facilities and 93
processes involved, taking into account the environmental impact, 94
age of equipment and facilities involved, the processes employed, 95
energy impacts and other appropriate factors. 96

Exception means a transfer of Water that is excepted under Section 97
4.9 from the prohibition against Diversions in Section 4.8. 98

Exception Standard means the standard for Exceptions established 99
in Section 4.9.4. 100

Intra-Basin Transfer means the transfer of Water from the 101

watershed of one of the Great Lakes into the watershed of another 102
Great Lake. 103

Measures means any legislation, law, regulation, directive, 104
requirement, guideline, program, policy, administrative practice 105
or other procedure. 106

New or Increased Diversion means a new Diversion, an increase in 107
an existing Diversion or the alteration of an existing Withdrawal 108
so that it becomes a Diversion. 109

New or Increased Withdrawal or Consumptive Use means a new 110
Withdrawal or Consumptive Use or an increase in an existing 111
Withdrawal or Consumptive Use. 112

Originating Party means the Party within whose jurisdiction an 113
Application or registration is made or required. 114

Party means a State party to this Compact. 115

Person means a human being or a legal person, including a 116
government or a non-governmental organization, including any 117
scientific, professional, business, nonprofit or public interest 118
organization or association that is neither affiliated with, nor 119
under the direction of a government. 120

Product means something produced in the Basin by human or 121
mechanical effort or through agricultural processes and used in 122
manufacturing, commercial or other processes or intended for 123
intermediate or end use consumers. (i) Water used as part of the 124
packaging of a Product shall be considered to be part of the 125
Product. (ii) Other than Water used as part of the packaging of a 126
Product, Water that is used primarily to transport materials in or 127
out of the Basin is not a Product or part of a Product. (iii) 128
Except as provided in (i) above, Water which is transferred as 129
part of a public or private supply is not a Product or part of a 130
Product. (iv) Water in its natural state such as in lakes, rivers, 131
reservoirs, aquifers or water basins is not a Product. 132

<u>Proposal means a Withdrawal, Diversion or Consumptive Use of Water</u>	133
<u>that is subject to this Compact.</u>	134
<u>Province means Ontario or Quebec.</u>	135
<u>Public Water Supply Purposes means water distributed to the public</u>	136
<u>through a physically connected system of treatment, storage and</u>	137
<u>distribution facilities serving a group of largely residential</u>	138
<u>customers that may also serve industrial, commercial and other</u>	139
<u>institutional operators. Water Withdrawn directly from the Basin</u>	140
<u>and not through such a system shall not be considered to be used</u>	141
<u>for Public Water Supply Purposes.</u>	142
<u>Regional Body means the members of the Council and the Premiers of</u>	143
<u>Ontario and Quebec or their designee as established by the</u>	144
<u>Agreement.</u>	145
<u>Regional Review means the collective review by the Regional Body</u>	146
<u>as described in Article 4 of this Compact.</u>	147
<u>Source Watershed means the watershed from which a Withdrawal</u>	148
<u>originates. If Water is Withdrawn directly from a Great Lake or</u>	149
<u>from the St. Lawrence River, then the Source Watershed shall be</u>	150
<u>considered to be the watershed of that Great Lake or the watershed</u>	151
<u>of the St. Lawrence River, respectively. If Water is Withdrawn</u>	152
<u>from the watershed of a stream that is a direct tributary to a</u>	153
<u>Great Lake or a direct tributary to the St. Lawrence River, then</u>	154
<u>the Source Watershed shall be considered to be the watershed of</u>	155
<u>that Great Lake or the watershed of the St. Lawrence River,</u>	156
<u>respectively, with a preference to the direct tributary stream</u>	157
<u>watershed from which it was Withdrawn.</u>	158
<u>Standard of Review and Decision means the Exception Standard,</u>	159
<u>Decision-Making Standard and reviews as outlined in Article 4 of</u>	160
<u>this Compact.</u>	161
<u>State means one of the states of Illinois, Indiana, Michigan,</u>	162
<u>Minnesota, New York, Ohio or Wisconsin or the Commonwealth of</u>	163

<u>Pennsylvania.</u>	164
<u>Straddling Community means any incorporated city, town or the</u>	165
<u>equivalent thereof, wholly within any County that lies partly or</u>	166
<u>completely within the Basin, whose corporate boundary existing as</u>	167
<u>of the effective date of this Compact, is partly within the Basin</u>	168
<u>or partly within two Great Lakes watersheds.</u>	169
<u>Technical Review means a detailed review conducted to determine</u>	170
<u>whether or not a Proposal that requires Regional Review under this</u>	171
<u>Compact meets the Standard of Review and Decision following</u>	172
<u>procedures and guidelines as set out in this Compact.</u>	173
<u>Water means ground or surface water contained within the Basin.</u>	174
<u>Water Dependent Natural Resources means the interacting components</u>	175
<u>of land, Water and living organisms affected by the Waters of the</u>	176
<u>Basin.</u>	177
<u>Waters of the Basin or Basin Water means the Great Lakes and all</u>	178
<u>streams, rivers, lakes, connecting channels and other bodies of</u>	179
<u>water, including tributary groundwater, within the Basin.</u>	180
<u>Withdrawal means the taking of water from surface water or</u>	181
<u>groundwater. Withdraw has a corresponding meaning.</u>	182
<u>Section 1.3. Findings and Purposes.</u>	183
<u>The legislative bodies of the respective Parties hereby find and</u>	184
<u>declare:</u>	185
<u>1. Findings:</u>	186
<u>a. The Waters of the Basin are precious public natural resources</u>	187
<u>shared and held in trust by the States;</u>	188
<u>b. The Waters of the Basin are interconnected and part of a single</u>	189
<u>hydrologic system;</u>	190
<u>c. The Waters of the Basin can concurrently serve multiple uses.</u>	191
<u>Such multiple uses include municipal, public, industrial,</u>	192

<u>commercial, agriculture, mining, navigation, energy</u>	193
<u>development and production, recreation, the subsistence,</u>	194
<u>economic and cultural activities of native peoples, Water</u>	195
<u>quality maintenance and the maintenance of fish and wildlife</u>	196
<u>habitat and a balanced ecosystem. And, other purposes are</u>	197
<u>encouraged, recognizing that such uses are interdependent and</u>	198
<u>must be balanced;</u>	199
<u>d. Future Diversions and Consumptive Uses of Basin Water resources</u>	200
<u>have the potential to significantly impact the environment,</u>	201
<u>economy and welfare of the Great Lakes-St. Lawrence River</u>	202
<u>region;</u>	203
<u>e. Continued sustainable, accessible and adequate Water supplies</u>	204
<u>for the people and economy of the Basin are of vital</u>	205
<u>importance; and,</u>	206
<u>f. The Parties have a shared duty to protect, conserve, restore,</u>	207
<u>improve and manage the renewable but finite Waters of the</u>	208
<u>Basin for the use, benefit and enjoyment of all their</u>	209
<u>citizens, including generations yet to come. The most</u>	210
<u>effective means of protecting, conserving, restoring,</u>	211
<u>improving and managing the Basin Waters is through the joint</u>	212
<u>pursuit of unified and cooperative principles, policies and</u>	213
<u>programs mutually agreed upon, enacted and adhered to by all</u>	214
<u>Parties.</u>	215
<u>2. Purposes:</u>	216
<u>a. To act together to protect, conserve, restore, improve and</u>	217
<u>effectively manage the Waters and Water Dependent Natural</u>	218
<u>Resources of the Basin under appropriate arrangements for</u>	219
<u>intergovernmental cooperation and consultation because</u>	220
<u>current lack of full scientific certainty should not be used</u>	221
<u>as a reason for postponing measures to protect the Basin</u>	222
<u>Ecosystem;</u>	223

<u>b. To remove causes of present and future controversies;</u>	224
<u>c. To provide for cooperative planning and action by the Parties</u>	225
<u>with respect to such Water resources;</u>	226
<u>d. To facilitate consistent approaches to Water management across</u>	227
<u>the Basin while retaining State management authority over</u>	228
<u>Water management decisions within the Basin;</u>	229
<u>e. To facilitate the exchange of data, strengthen the scientific</u>	230
<u>information base upon which decisions are made and engage in</u>	231
<u>consultation on the potential effects of proposed Withdrawals</u>	232
<u>and losses on the Waters and Water Dependent Natural</u>	233
<u>Resources of the Basin;</u>	234
<u>f. To prevent significant adverse impacts of Withdrawals and</u>	235
<u>losses on the Basin's ecosystems and watersheds;</u>	236
<u>g. To promote interstate and State-Provincial comity; and,</u>	237
<u>h. To promote an Adaptive Management approach to the conservation</u>	238
<u>and management of Basin Water resources, which recognizes,</u>	239
<u>considers and provides adjustments for the uncertainties in,</u>	240
<u>and evolution of, scientific knowledge concerning the Basin's</u>	241
<u>Waters and Water Dependent Natural Resources.</u>	242
<u>Section 1.4. Science.</u>	243
<u>1. The Parties commit to provide leadership for the development of</u>	244
<u>a collaborative strategy with other regional partners to</u>	245
<u>strengthen the scientific basis for sound Water management</u>	246
<u>decision making under this Compact.</u>	247
<u>2. The strategy shall guide the collection and application of</u>	248
<u>scientific information to support:</u>	249
<u>a. An improved understanding of the individual and Cumulative</u>	250
<u>Impacts of Withdrawals from various locations and Water</u>	251
<u>sources on the Basin Ecosystem and to develop a mechanism by</u>	252
<u>which impacts of Withdrawals may be assessed;</u>	253

<u>b. The periodic assessment of Cumulative Impacts of Withdrawals,</u>	254
<u> Diversions and Consumptive Uses on a Great Lake and St.</u>	255
<u> Lawrence River watershed basis;</u>	256
<u>c. Improved scientific understanding of the Waters of the Basin;</u>	257
<u>d. Improved understanding of the role of groundwater in Basin</u>	258
<u> Water resources management; and,</u>	259
<u>e. The development, transfer and application of science and</u>	260
<u> research related to Water conservation and Water use</u>	261
<u> efficiency.</u>	262

ARTICLE 2 263

ORGANIZATION 264

Section 2.1. Council Created. 265

The Great Lakes-St. Lawrence River Basin Water Resources Council 266
is hereby created as a body politic and corporate, with succession 267
for the duration of this Compact, as an agency and instrumentality 268
of the governments of the respective Parties. 269

Section 2.2. Council Membership. 270

The Council shall consist of the Governors of the Parties, ex 271
officio. 272

Section 2.3. Alternates. 273

Each member of the Council shall appoint at least one alternate 274
who may act in his or her place and stead, with authority to 275
attend all meetings of the Council and with power to vote in the 276
absence of the member. Unless otherwise provided by law of the 277
Party for which he or she is appointed, each alternate shall serve 278
during the term of the member appointing him or her, subject to 279
removal at the pleasure of the member. In the event of a vacancy 280
in the office of alternate, it shall be filled in the same manner 281
as an original appointment for the unexpired term only. 282

Section 2.4. Voting. 283

<u>1. Each member is entitled to one vote on all matters that may</u>	284
<u> <u>come before the Council.</u></u>	285
<u>2. Unless otherwise stated, the rule of decision shall be by a</u>	286
<u> <u>simple majority.</u></u>	287
<u>3. The Council shall annually adopt a budget for each fiscal year</u>	288
<u> <u>and the amount required to balance the budget shall be</u></u>	289
<u> <u>apportioned equitably among the Parties by unanimous vote of</u></u>	290
<u> <u>the Council. The appropriation of such amounts shall be</u></u>	291
<u> <u>subject to such review and approval as may be required by the</u></u>	292
<u> <u>budgetary processes of the respective Parties.</u></u>	293
<u>4. The participation of Council members from a majority of the</u>	294
<u> <u>Parties shall constitute a quorum for the transaction of</u></u>	295
<u> <u>business at any meeting of the Council.</u></u>	296
<u>Section 2.5. Organization and Procedure.</u>	297
<u>The Council shall provide for its own organization and procedure,</u>	298
<u>and may adopt rules and regulations governing its meetings and</u>	299
<u>transactions, as well as the procedures and timeline for</u>	300
<u>submission, review and consideration of Proposals that come before</u>	301
<u>the Council for its review and action. The Council shall organize,</u>	302
<u>annually, by the election of a Chair and Vice-Chair from among its</u>	303
<u>members. Each member may appoint an advisor, who may attend all</u>	304
<u>meetings of the Council and its committees, but shall not have</u>	305
<u>voting power. The Council may employ or appoint professional and</u>	306
<u>administrative personnel, including an Executive Director, as it</u>	307
<u>may deem advisable, to carry out the purposes of this Compact.</u>	308
<u>Section 2.6. Use of Existing Offices and Agencies.</u>	309
<u>It is the policy of the Parties to preserve and utilize the</u>	310
<u>functions, powers and duties of existing offices and agencies of</u>	311
<u>government to the extent consistent with this Compact. Further,</u>	312
<u>the Council shall promote and aid the coordination of the</u>	313
<u>activities and programs of the Parties concerned with Water</u>	314

resources management in the Basin. To this end, but without 315
limitation, the Council may: 316

1. Advise, consult, contract, assist or otherwise cooperate with 317
any and all such agencies; 318

2. Employ any other agency or instrumentality of any of the 319
Parties for any purpose; and, 320

3. Develop and adopt plans consistent with the Water resources 321
plans of the Parties. 322

Section 2.7. Jurisdiction. 323

The Council shall have, exercise and discharge its functions, 324
powers and duties within the limits of the Basin. Outside the 325
Basin, it may act in its discretion, but only to the extent such 326
action may be necessary or convenient to effectuate or implement 327
its powers or responsibilities within the Basin and subject to the 328
consent of the jurisdiction wherein it proposes to act. 329

Section 2.8. Status, Immunities and Privileges. 330

1. The Council, its members and personnel in their official 331
capacity and when engaged directly in the affairs of the 332
Council, its property and its assets, wherever located and by 333
whomsoever held, shall enjoy the same immunity from suit and 334
every form of judicial process as is enjoyed by the Parties, 335
except to the extent that the Council may expressly waive its 336
immunity for the purposes of any proceedings or by the terms 337
of any contract. 338

2. The property and assets of the Council, wherever located and by 339
whomsoever held, shall be considered public property and 340
shall be immune from search, requisition, confiscation, 341
expropriation or any other form of taking or foreclosure by 342
executive or legislative action. 343

3. The Council, its property and its assets, income and the 344

operations it carries out pursuant to this Compact shall be 345
immune from all taxation by or under the authority of any of 346
the Parties or any political subdivision thereof; provided, 347
however, that in lieu of property taxes the Council may make 348
reasonable payments to local taxing districts in annual 349
amounts which shall approximate the taxes lawfully assessed 350
upon similar property. 351

Section 2.9. Advisory Committees. 352

The Council may constitute and empower advisory committees, which 353
may be comprised of representatives of the public and of federal, 354
State, tribal, county and local governments, water resources 355
agencies, water-using industries and sectors, water-interest 356
groups and academic experts in related fields. 357

ARTICLE 3 358

GENERAL POWERS AND DUTIES 359

Section 3.1. General. 360

The Waters and Water Dependent Natural Resources of the Basin are 361
subject to the sovereign right and responsibilities of the 362
Parties, and it is the purpose of this Compact to provide for 363
joint exercise of such powers of sovereignty by the Council in the 364
common interests of the people of the region, in the manner and to 365
the extent provided in this Compact. The Council and the Parties 366
shall use the Standard of Review and Decision and procedures 367
contained in or adopted pursuant to this Compact as the means to 368
exercise their authority under this Compact. 369

The Council may revise the Standard of Review and Decision, after 370
consultation with the Provinces and upon unanimous vote of all 371
Council members, by regulation duly adopted in accordance with 372
Section 3.3 of this Compact and in accordance with each Party's 373
respective statutory authorities and applicable procedures. 374

The Council shall identify priorities and develop plans and 375

policies relating to Basin Water resources. It shall adopt and 376
promote uniform and coordinated policies for Water resources 377
conservation and management in the Basin. 378

Section 3.2. Council Powers. 379

The Council may: plan; conduct research and collect, compile, 380
analyze, interpret, report and disseminate data on Water resources 381
and uses; forecast Water levels; conduct investigations; institute 382
court actions; design, acquire, construct, reconstruct, own, 383
operate, maintain, control, sell and convey real and personal 384
property and any interest therein as it may deem necessary, useful 385
or convenient to carry out the purposes of this Compact; make 386
contracts; receive and accept such payments, appropriations, 387
grants, gifts, loans, advances and other funds, properties and 388
services as may be transferred or made available to it by any 389
Party or by any other public or private agency, corporation or 390
individual; and, exercise such other and different powers as may 391
be delegated to it by this Compact or otherwise pursuant to law, 392
and have and exercise all powers necessary or convenient to carry 393
out its express powers or which may be reasonably implied 394
therefrom. 395

Section 3.3. Rules and Regulations. 396

1. The Council may promulgate and enforce such rules and 397
regulations as may be necessary for the implementation and 398
enforcement of this Compact. The Council may adopt by 399
regulation, after public notice and public hearing, 400
reasonable Application fees with respect to those Proposals 401
for Exceptions that are subject to Council review under 402
Section 4.9. Any rule or regulation of the Council, other 403
than one which deals solely with the internal management of 404
the Council or its property, shall be adopted only after 405
public notice and hearing. 406

2. Each Party, in accordance with its respective statutory 407
authorities and applicable procedures, may adopt and enforce 408
rules and regulations to implement and enforce this Compact 409
and the programs adopted by such Party to carry out the 410
management programs contemplated by this Compact. 411

Section 3.4. Program Review and Findings. 412

1. Each Party shall submit a report to the Council and the 413
Regional Body detailing its Water management and conservation 414
and efficiency programs that implement this Compact. The 415
report shall set out the manner in which Water Withdrawals 416
are managed by sector, Water source, quantity or any other 417
means, and how the provisions of the Standard of Review and 418
Decision and conservation and efficiency programs are 419
implemented. The first report shall be provided by each Party 420
one year from the effective date of this Compact and 421
thereafter every five years. 422

2. The Council, in cooperation with the Provinces, shall review 423
its Water management and conservation and efficiency programs 424
and those of the Parties that are established in this Compact 425
and make findings on whether the Water management program 426
provisions in this Compact are being met, and if not, 427
recommend options to assist the Parties in meeting the 428
provisions of this Compact. Such review shall take place: 429

a. Thirty days after the first report is submitted by all Parties; 430
and, 431

b. Every five years after the effective date of this Compact; and, 432

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

3. As one of its duties and responsibilities, the Council may 433
recommend a range of approaches to the Parties with respect 434
to the development, enhancement and application of Water 435
management and conservation and efficiency programs to 436

implement the Standard of Review and Decision reflecting 437
improved scientific understanding of the Waters of the Basin, 438
including groundwater, and the impacts of Withdrawals on the 439
Basin Ecosystem. 440

ARTICLE 4 441

WATER MANAGEMENT AND REGULATION 442

Section 4.1. Water Resources Inventory, Registration and 443
Reporting. 444

1. Within five years of the effective date of this Compact, each 445
Party shall develop and maintain a Water resources inventory 446
for the collection, interpretation, storage, retrieval, 447
exchange and dissemination of information concerning the 448
Water resources of the Party, including, but not limited to, 449
information on the location, type, quantity and use of those 450
resources and the location, type and quantity of Withdrawals, 451
Diversions and Consumptive Uses. To the extent feasible, the 452
Water resources inventory shall be developed in cooperation 453
with local, State, federal, tribal and other private agencies 454
and entities, as well as the Council. Each Party's agencies 455
shall cooperate with that Party in the development and 456
maintenance of the inventory. 457
2. The Council shall assist each Party to develop a common base of 458
data regarding the management of the Water resources of the 459
Basin and to establish systematic arrangements for the 460
exchange of those data with other States and Provinces. 461
3. To develop and maintain a compatible base of Water use 462
information, within five years of the effective date of this 463
Compact any Person who Withdraws Water in an amount of 464
100,000 gallons per day or greater average in any 30-day 465
period (including Consumptive Uses) from all sources, or 466
Diverts Water of any amount, shall register the Withdrawal or 467
Diversion by a date set by the Council unless the Person has 468

previously registered in accordance with an existing State 469
program. The Person shall register the Withdrawal or 470
Diversion with the Originating Party using a form prescribed 471
by the Originating Party that shall include, at a minimum and 472
without limitation: the name and address of the registrant 473
and date of registration; the locations and sources of the 474
Withdrawal or Diversion; the capacity of the Withdrawal or 475
Diversion per day and the amount Withdrawn or Diverted from 476
each source; the uses made of the Water; places of use and 477
places of discharge; and, such other information as the 478
Originating Party may require. All registrations shall 479
include an estimate of the volume of the Withdrawal or 480
Diversion in terms of gallons per day average in any 30-day 481
period. 482

4. All registrants shall annually report the monthly volumes of 483
the Withdrawal, Consumptive Use and Diversion in gallons to 484
the Originating Party and any other information requested by 485
the Originating Party. 486

5. Each Party shall annually report the information gathered 487
pursuant to this Section to a Great Lakes-St. Lawrence River 488
Water use data base repository and aggregated information 489
shall be made publicly available, consistent with the 490
confidentiality requirements in Section 8.3. 491

6. Information gathered by the Parties pursuant to this Section 492
shall be used to improve the sources and applications of 493
scientific information regarding the Waters of the Basin and 494
the impacts of the Withdrawals and Diversions from various 495
locations and Water sources on the Basin Ecosystem, and to 496
better understand the role of groundwater in the Basin. The 497
Council and the Parties shall coordinate the collection and 498
application of scientific information to further develop a 499
mechanism by which individual and Cumulative Impacts of 500

<u>Withdrawals, Consumptive Uses and Diversions shall be</u>	501
<u>assessed.</u>	502
<u>Section 4.2. Water Conservation and Efficiency Programs.</u>	503
<u>1. The Council commits to identify, in cooperation with the</u>	504
<u>Provinces, Basin-wide Water conservation and efficiency</u>	505
<u>objectives to assist the Parties in developing their Water</u>	506
<u>conservation and efficiency program. These objectives are</u>	507
<u>based on the goals of:</u>	508
<u>a. Ensuring improvement of the Waters and Water Dependent Natural</u>	509
<u>Resources;</u>	510
<u>b. Protecting and restoring the hydrologic and ecosystem integrity</u>	511
<u>of the Basin;</u>	512
<u>c. Retaining the quantity of surface water and groundwater in the</u>	513
<u>Basin;</u>	514
<u>d. Ensuring sustainable use of Waters of the Basin; and,</u>	515
<u>e. Promoting the efficiency of use and reducing losses and waste</u>	516
<u>of Water.</u>	517
<u>2. Within two years of the effective date of this Compact, each</u>	518
<u>Party shall develop its own Water conservation and efficiency</u>	519
<u>goals and objectives consistent with the Basin-wide goals and</u>	520
<u>objectives, and shall develop and implement a Water</u>	521
<u>conservation and efficiency program, either voluntary or</u>	522
<u>mandatory, within its jurisdiction based on the Party's goals</u>	523
<u>and objectives. Each Party shall annually assess its programs</u>	524
<u>in meeting the Party's goals and objectives, report to the</u>	525
<u>Council and the Regional Body and make this annual assessment</u>	526
<u>available to the public.</u>	527
<u>3. Beginning five years after the effective date of this Compact,</u>	528
<u>and every five years thereafter, the Council, in cooperation</u>	529
<u>with the Provinces, shall review and modify as appropriate</u>	530

<u>the Basin-wide objectives, and the Parties shall have regard</u>	531
<u>for any such modifications in implementing their programs.</u>	532
<u>This assessment will be based on examining new technologies,</u>	533
<u>new patterns of Water use, new resource demands and threats</u>	534
<u>and Cumulative Impact assessment under Section 4.15.</u>	535
<u>4. Within two years of the effective date of this Compact, the</u>	536
<u>Parties commit to promote Environmentally Sound and</u>	537
<u>Economically Feasible Water Conservation Measures such as:</u>	538
<u>a. Measures that promote efficient use of Water;</u>	539
<u>b. Identification and sharing of best management practices and</u>	540
<u>state of the art conservation and efficiency technologies;</u>	541
<u>c. Application of sound planning principles;</u>	542
<u>d. Demand-side and supply-side Measures or incentives; and,</u>	543
<u>e. Development, transfer and application of science and research.</u>	544
<u>5. Each Party shall implement in accordance with Paragraph 2 above</u>	545
<u>a voluntary or mandatory Water conservation program for all,</u>	546
<u>including existing, Basin Water users. Conservation programs</u>	547
<u>need to adjust to new demands and the potential impacts of</u>	548
<u>cumulative effects and climate.</u>	549
Section 4.3. Party Powers and Duties.	550
<u>1. Each Party, within its jurisdiction, shall manage and regulate</u>	551
<u>New or Increased Withdrawals, Consumptive Uses and</u>	552
<u>Diversions, including Exceptions, in accordance with this</u>	553
<u>Compact.</u>	554
<u>2. Each Party shall require an Applicant to submit an Application</u>	555
<u>in such manner and with such accompanying information as the</u>	556
<u>Party shall prescribe.</u>	557
<u>3. No Party may approve a Proposal if the Party determines that</u>	558
<u>the Proposal is inconsistent with this Compact or the</u>	559
<u>Standard of Review and Decision or any implementing rules or</u>	560

regulations promulgated thereunder. The Party may approve, 561
approve with modifications or disapprove any Proposal 562
depending on the Proposal's consistency with this Compact and 563
the Standard of Review and Decision. 564

4. Each Party shall monitor the implementation of any approved 565
Proposal to ensure consistency with the approval and may take 566
all necessary enforcement actions. 567

5. No Party shall approve a Proposal subject to Council or 568
Regional Review, or both, pursuant to this Compact unless it 569
shall have been first submitted to and reviewed by either the 570
Council or Regional Body, or both, and approved by the 571
Council, as applicable. Sufficient opportunity shall be 572
provided for comment on the Proposal's consistency with this 573
Compact and the Standard of Review and Decision. All such 574
comments shall become part of the Party's formal record of 575
decision, and the Party shall take into consideration any 576
such comments received. 577

Section 4.4. Requirement for Originating Party Approval. 578

No Proposal subject to management and regulation under this 579
Compact shall hereafter be undertaken by any Person unless it 580
shall have been approved by the Originating Party. 581

Section 4.5. Regional Review. 582

1. General. 583

a. It is the intention of the Parties to participate in Regional 584
Review of Proposals with the Provinces, as described in this 585
Compact and the Agreement. 586

b. Unless the Applicant or the Originating Party otherwise 587
requests, it shall be the goal of the Regional Body to 588
conclude its review no later than 90 days after notice under 589
Section 4.5.2 of such Proposal is received from the 590

<u>Originating Party.</u>	591
<u>c. Proposals for Exceptions subject to Regional Review shall be</u>	592
<u>submitted by the Originating Party to the Regional Body for</u>	593
<u>Regional Review, and where applicable, to the Council for</u>	594
<u>concurrent review.</u>	595
<u>d. The Parties agree that the protection of the integrity of the</u>	596
<u>Great Lakes-St. Lawrence River Basin Ecosystem shall be the</u>	597
<u>overarching principle for reviewing Proposals subject to</u>	598
<u>Regional Review, recognizing uncertainties with respect to</u>	599
<u>demands that may be placed on Basin Water, including</u>	600
<u>groundwater, levels and flows of the Great Lakes and the St.</u>	601
<u>Lawrence River, future changes in environmental conditions,</u>	602
<u>the reliability of existing data and the extent to which</u>	603
<u>Diversions may harm the integrity of the Basin Ecosystem.</u>	604
<u>e. The Originating Party shall have lead responsibility for</u>	605
<u>coordinating information for resolution of issues related to</u>	606
<u>evaluation of a Proposal, and shall consult with the</u>	607
<u>Applicant throughout the Regional Review process.</u>	608
<u>f. A majority of the members of the Regional Body may request</u>	609
<u>Regional Review of a regionally significant or potentially</u>	610
<u>precedent setting Proposal. Such Regional Review must be</u>	611
<u>conducted, to the extent possible, within the time frames set</u>	612
<u>forth in this Section. Any such Regional Review shall be</u>	613
<u>undertaken only after consulting the Applicant.</u>	614
<u>2. Notice from Originating Party to the Regional Body.</u>	615
<u>a. The Originating Party shall determine if a Proposal is subject</u>	616
<u>to Regional Review. If so, the Originating Party shall</u>	617
<u>provide timely notice to the Regional Body and the public.</u>	618
<u>b. Such notice shall not be given unless and until all</u>	619
<u>information, documents and the Originating Party's Technical</u>	620
<u>Review needed to evaluate whether the Proposal meets the</u>	621

<u>Standard of Review and Decision have been provided.</u>	622
<u>c. An Originating Party may:</u>	623
<u>i. Provide notice to the Regional Body of an Application, even if notification is not required; or,</u>	624
	625
<u>ii. Request Regional Review of an application, even if Regional Review is not required. Any such Regional Review shall be undertaken only after consulting the Applicant.</u>	626
	627
	628
<u>d. An Originating Party may provide preliminary notice of a potential Proposal.</u>	629
	630
<u>3. Public Participation.</u>	631
<u>a. To ensure adequate public participation, the Regional Body shall adopt procedures for the review of Proposals that are subject to Regional Review in accordance with this Article.</u>	632
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	634
<u>b. The Regional Body shall provide notice to the public of a Proposal undergoing Regional Review. Such notice shall indicate that the public has an opportunity to comment in writing to the Regional Body on whether the Proposal meets the Standard of Review and Decision.</u>	635
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<u>c. The Regional Body shall hold a public meeting in the State or Province of the Originating Party in order to receive public comment on the issue of whether the Proposal under consideration meets the Standard of Review and Decision.</u>	640
	641
	642
	643
<u>d. The Regional Body shall consider the comments received before issuing a Declaration of Finding.</u>	644
	645
<u>e. The Regional Body shall forward the comments it receives to the Originating Party.</u>	646
	647
<u>4. Technical Review.</u>	648
<u>a. The Originating Party shall provide the Regional Body with its Technical Review of the Proposal under consideration.</u>	649
	650

- b. The Originating Party's Technical Review shall thoroughly 651
analyze the Proposal and provide an evaluation of the 652
Proposal sufficient for a determination of whether the 653
Proposal meets the Standard of Review and Decision. 654
- c. Any member of the Regional Body may conduct their own Technical 655
Review of any Proposal subject to Regional Review. 656
- d. At the request of the majority of its members, the Regional 657
Body shall make such arrangements as it considers appropriate 658
for an independent Technical Review of a Proposal. 659
- e. All Parties shall exercise their best efforts to ensure that a 660
Technical Review undertaken under Sections 4.5.4.c and 661
4.5.4.d does not unnecessarily delay the decision by the 662
Originating Party on the Application. Unless the Applicant or 663
the Originating Party otherwise requests, all Technical 664
Reviews shall be completed no later than 60 days after the 665
date the notice of the Proposal was given to the Regional 666
Body. 667
5. Declaration of Finding. 668
- a. The Regional Body shall meet to consider a Proposal. The 669
Applicant shall be provided with an opportunity to present 670
the Proposal to the Regional Body at such time. 671
- b. The Regional Body, having considered the notice, the 672
Originating Party's Technical Review, any other independent 673
Technical Review that is made, any comments or objections 674
including the analysis of comments made by the public, First 675
Nations and federally recognized Tribes, and any other 676
information that is provided under this Compact shall issue a 677
Declaration of Finding that the Proposal under consideration: 678
- i. Meets the Standard of Review and Decision; 679
- ii. Does not meet the Standard of Review and Decision; or, 680

<u>iii. Would meet the Standard of Review and Decision if certain conditions were met.</u>	681
	682
<u>c. An Originating Party may decline to participate in a Declaration of Finding made by the Regional Body.</u>	683
	684
<u>d. The Parties recognize and affirm that it is preferable for all members of the Regional Body to agree whether the Proposal meets the Standard of Review and Decision.</u>	685
	686
	687
<u>e. If the members of the Regional Body who participate in the Declaration of Finding all agree, they shall issue a written Declaration of Finding with consensus.</u>	688
	689
	690
<u>f. In the event that the members cannot agree, the Regional Body shall make every reasonable effort to achieve consensus within 25 days.</u>	691
	692
	693
<u>g. Should consensus not be achieved, the Regional Body may issue a Declaration of Finding that presents different points of view and indicates each Party's conclusions.</u>	694
	695
	696
<u>h. The Regional Body shall release the Declaration of Finding to the public.</u>	697
	698
<u>i. The Originating Party and the Council shall consider the Declaration of Finding before making a decision on the Proposal.</u>	699
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<u>Section 4.6. Proposals Subject to Prior Notice.</u>	702
<u>1. Beginning no later than five years from the effective date of this Compact, the Originating Party shall provide all Parties and the Provinces with detailed and timely notice and an opportunity to comment within 90 days on any Proposal for a New or Increased Consumptive Use of 5 million gallons per day or greater average in any 90-day period. Comments shall address whether or not the Proposal is consistent with the Standard of Review and Decision. The Originating Party shall</u>	703
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provide a response to any such comment received from another 711
Party. 712

2. A Party may provide notice, an opportunity to comment and a 713
response to comments even if this is not required under 714
Paragraph 1 of this Section. Any provision of such notice and 715
opportunity to comment shall be undertaken only after 716
consulting the Applicant. 717

Section 4.7 Council Actions. 718

1. Proposals for Exceptions subject to Council Review shall be 719
submitted by the Originating Party to the Council for Council 720
Review, and where applicable, to the Regional Body for 721
concurrent review. 722

2. The Council shall review and take action on Proposals in 723
accordance with this Compact and the Standard of Review and 724
Decision. The Council shall not take action on a Proposal 725
subject to Regional Review pursuant to this Compact unless 726
the Proposal shall have been first submitted to and reviewed 727
by the Regional Body. The Council shall consider any findings 728
resulting from such review. 729

Section 4.8. Prohibition of New or Increased Diversions. 730

All New or Increased Diversions are prohibited, except as provided 731
for in this Article. 732

Section 4.9. Exceptions to the Prohibition of Diversions. 733

1. Straddling Communities. A Proposal to transfer Water to an area 734
within a Straddling Community but outside the Basin or 735
outside the Source Great Lake Watershed shall be excepted 736
from the prohibition against Diversions and be managed and 737
regulated by the Originating Party provided that, regardless 738
of the volume of Water transferred, all the Water so 739
transferred shall be used solely for Public Water Supply 740

- Purposes within the Straddling Community, and: 741
- a. All Water Withdrawn from the Basin shall be returned, either 742
naturally or after use, to the Source Watershed less an 743
allowance for Consumptive Use. No surface water or 744
groundwater from outside the Basin may be used to satisfy any 745
portion of this criterion except if it: 746
- i. Is part of a water supply or wastewater treatment system that 747
combines water from inside and outside of the Basin; 748
- ii. Is treated to meet applicable water quality discharge 749
standards and to prevent the introduction of invasive species 750
into the Basin; 751
- iii. Maximizes the portion of water returned to the Source 752
Watershed as Basin Water and minimizes the surface water or 753
groundwater from outside the Basin; 754
- b. If the Proposal results from a New or Increased Withdrawal of 755
100,000 gallons per day or greater average over any 90-day 756
period, the Proposal shall also meet the Exception Standard; 757
and, 758
- c. If the Proposal results in a New or Increased Consumptive Use 759
of 5 million gallons per day or greater average over any 760
90-day period, the Proposal shall also undergo Regional 761
Review. 762
2. Intra-Basin Transfer. A Proposal for an Intra-Basin Transfer 763
that would be considered a Diversion under this Compact, and 764
not already excepted pursuant to Paragraph 1 of this Section, 765
shall be excepted from the prohibition against Diversions, 766
provided that: 767
- a. If the Proposal results from a New or Increased Withdrawal of 768
less than 100,000 gallons per day average over any 90-day 769
period, the Proposal shall be subject to management and 770

<u>regulation at the discretion of the Originating Party.</u>	771
<u>b. If the Proposal results from a New or Increased Withdrawal of</u>	772
<u>100,000 gallons per day or greater average over any 90-day</u>	773
<u>period and if the Consumptive Use resulting from the</u>	774
<u>Withdrawal is less than 5 million gallons per day average</u>	775
<u>over any 90-day period:</u>	776
<u>i. The Proposal shall meet the Exception Standard and be subject</u>	777
<u>to management and regulation by the Originating Party, except</u>	778
<u>that the Water may be returned to another Great Lake</u>	779
<u>watershed rather than the Source Watershed;</u>	780
<u>ii. The Applicant shall demonstrate that there is no feasible,</u>	781
<u>cost effective, and environmentally sound water supply</u>	782
<u>alternative within the Great Lake watershed to which the</u>	783
<u>Water will be transferred, including conservation of existing</u>	784
<u>water supplies; and,</u>	785
<u>iii. The Originating Party shall provide notice to the other</u>	786
<u>Parties prior to making any decision with respect to the</u>	787
<u>Proposal.</u>	788
<u>c. If the Proposal results in a New or Increased Consumptive Use</u>	789
<u>of 5 million gallons per day or greater average over any</u>	790
<u>90-day period:</u>	791
<u>i. The Proposal shall be subject to management and regulation by</u>	792
<u>the Originating Party and shall meet the Exception Standard,</u>	793
<u>ensuring that Water Withdrawn shall be returned to the Source</u>	794
<u>Watershed;</u>	795
<u>ii. The Applicant shall demonstrate that there is no feasible,</u>	796
<u>cost effective, and environmentally sound water supply</u>	797
<u>alternative within the Great Lake watershed to which the</u>	798
<u>Water will be transferred, including conservation of existing</u>	799
<u>water supplies;</u>	800

- iii. The Proposal undergoes Regional Review; and, 801
- iv. The Proposal is approved by the Council. Council approval 802
shall be given unless one or more Council members vote to 803
disapprove. 804
3. Straddling Counties. A Proposal to transfer Water to a 805
Community within a Straddling County that would be considered 806
a Diversion under this Compact shall be excepted from the 807
prohibition against Diversions, provided that it satisfies 808
all of the following conditions: 809
- a. The Water shall be used solely for the Public Water Supply 810
Purposes of the Community within a Straddling County that is 811
without adequate supplies of potable water; 812
- b. The Proposal meets the Exception Standard, maximizing the 813
portion of water returned to the Source Watershed as Basin 814
Water and minimizing the surface water or groundwater from 815
outside the Basin; 816
- c. The Proposal shall be subject to management and regulation by 817
the Originating Party, regardless of its size; 818
- d. There is no reasonable water supply alternative within the 819
Basin in which the community is located, including 820
conservation of existing water supplies; 821
- e. Caution shall be used in determining whether or not the 822
Proposal meets the conditions for this Exception. This 823
Exception should not be authorized unless it can be shown 824
that it will not endanger the integrity of the Basin 825
Ecosystem; 826
- f. The Proposal undergoes Regional Review; and, 827
- g. The Proposal is approved by the Council. Council approval shall 828
be given unless one or more Council members vote to 829
disapprove. 830

A Proposal must satisfy all of the conditions listed above. 831
Further, substantive consideration will also be given to whether 832
or not the Proposal can provide sufficient scientifically based 833
evidence that the existing water supply is derived from 834
groundwater that is hydrologically interconnected to Waters of the 835
Basin. 836

4. Exception Standard. Proposals subject to management and 837
regulation in this Section shall be declared to meet this 838
Exception Standard and may be approved as appropriate only 839
when the following criteria are met: 840

a. The need for all or part of the proposed Exception cannot be 841
reasonably avoided through the efficient use and conservation 842
of existing water supplies; 843

b. The Exception will be limited to quantities that are considered 844
reasonable for the purposes for which it is proposed; 845

c. All Water Withdrawn shall be returned, either naturally or 846
after use, to the Source Watershed less an allowance for 847
Consumptive Use. No surface water or groundwater from outside 848
the Basin may be used to satisfy any portion of this 849
criterion except if it: 850

i. Is part of a water supply or wastewater treatment system that 851
combines water from inside and outside of the Basin; 852

ii. Is treated to meet applicable water quality discharge 853
standards and to prevent the introduction of invasive species 854
into the Basin; 855

d. The Exception will be implemented so as to ensure that it will 856
result in no significant individual or cumulative adverse 857
impacts to the quantity or quality of the Waters and Water 858
Dependent Natural Resources of the Basin with consideration 859
given to the potential Cumulative Impacts of any 860
precedent-setting consequences associated with the Proposal; 861

<u>e. The Exception will be implemented so as to incorporate</u>	862
<u>Environmentally Sound and Economically Feasible Water</u>	863
<u>Conservation Measures to minimize Water Withdrawals or</u>	864
<u>Consumptive Use;</u>	865
<u>f. The Exception will be implemented so as to ensure that it is in</u>	866
<u>compliance with all applicable municipal, State and federal</u>	867
<u>laws as well as regional interstate and international</u>	868
<u>agreements, including the Boundary Waters Treaty of 1909;</u>	869
<u>and,</u>	870
<u>g. All other applicable criteria in Section 4.9 have also been</u>	871
<u>met.</u>	872
<u>Section 4.10. Management and Regulation of New or Increased</u>	873
<u>Withdrawals and Consumptive Uses.</u>	874
<u>1. Within five years of the effective date of this Compact, each</u>	875
<u>Party shall create a program for the management and</u>	876
<u>regulation of New or Increased Withdrawals and Consumptive</u>	877
<u>Uses by adopting and implementing Measures consistent with</u>	878
<u>the Decision-Making Standard. Each Party, through a</u>	879
<u>considered process, shall set and may modify threshold levels</u>	880
<u>for the regulation of New or Increased Withdrawals in order</u>	881
<u>to assure an effective and efficient Water management program</u>	882
<u>that will ensure that uses overall are reasonable, that</u>	883
<u>Withdrawals overall will not result in significant impacts to</u>	884
<u>the Waters and Water Dependent Natural Resources of the</u>	885
<u>Basin, determined on the basis of significant impacts to the</u>	886
<u>physical, chemical, and biological integrity of Source</u>	887
<u>Watersheds, and that all other objectives of the Compact are</u>	888
<u>achieved. Each Party may determine the scope and thresholds</u>	889
<u>of its program, including which New or Increased Withdrawals</u>	890
<u>and Consumptive Uses will be subject to the program.</u>	891
<u>2. Any Party that fails to set threshold levels that comply with</u>	892

<u>Section 4.10.1 any time before ten years after the effective</u>	893
<u>date of this Compact shall apply a threshold level for</u>	894
<u>management and regulation of all New or Increased Withdrawals</u>	895
<u>of 100,000 gallons per day or greater average in any 90-day</u>	896
<u>period.</u>	897
<u>3. The Parties intend programs for New or Increased Withdrawals</u>	898
<u>and Consumptive Uses to evolve as may be necessary to protect</u>	899
<u>Basin Waters. Pursuant to Section 3.4, the Council, in</u>	900
<u>cooperation with the Provinces, shall periodically assess the</u>	901
<u>Water management programs of the Parties. Such assessments</u>	902
<u>may produce recommendations for the strengthening of the</u>	903
<u>programs, including without limitation, establishing lower</u>	904
<u>thresholds for management and regulation in accordance with</u>	905
<u>the Decision-Making Standard.</u>	906
<u>Section 4.11. Decision-Making Standard.</u>	907
<u>Proposals subject to management and regulation in Section 4.10</u>	908
<u>shall be declared to meet this Decision-Making Standard and</u>	909
<u>may be approved as appropriate only when the following</u>	910
<u>criteria are met:</u>	911
<u>1. All Water Withdrawn shall be returned, either naturally or</u>	912
<u>after use, to the Source Watershed less an allowance for</u>	913
<u>Consumptive Use;</u>	914
<u>2. The Withdrawal or Consumptive Use will be implemented so as to</u>	915
<u>ensure that the Proposal will result in no significant</u>	916
<u>individual or cumulative adverse impacts to the quantity or</u>	917
<u>quality of the Waters and Water Dependent Natural Resources</u>	918
<u>and the applicable Source Watershed;</u>	919
<u>3. The Withdrawal or Consumptive Use will be implemented so as to</u>	920
<u>incorporate Environmentally Sound and Economically Feasible</u>	921
<u>Water Conservation Measures;</u>	922
<u>4. The Withdrawal or Consumptive Use will be implemented so as to</u>	923

<u>ensure that it is in compliance with all applicable</u>	924
<u>municipal, State and federal laws as well as regional</u>	925
<u>interstate and international agreements, including the</u>	926
<u>Boundary Waters Treaty of 1909;</u>	927
<u>5. The proposed use is reasonable, based upon a consideration of</u>	928
<u>the following factors:</u>	929
<u>a. Whether the proposed Withdrawal or Consumptive Use is planned</u>	930
<u>in a fashion that provides for efficient use of the Water,</u>	931
<u>and will avoid or minimize the waste of Water;</u>	932
<u>b. If the Proposal is for an increased Withdrawal or Consumptive</u>	933
<u>Use, whether efficient use is made of existing water</u>	934
<u>supplies;</u>	935
<u>c. The balance between economic development, social development</u>	936
<u>and environmental protection of the proposed Withdrawal and</u>	937
<u>use and other existing or planned withdrawals and water uses</u>	938
<u>sharing the Water source;</u>	939
<u>d. The supply potential of the Water source, considering quantity,</u>	940
<u>quality and reliability and safe yield of hydrologically</u>	941
<u>interconnected water sources;</u>	942
<u>e. The probable degree and duration of any adverse impacts caused</u>	943
<u>or expected to be caused by the proposed Withdrawal and use</u>	944
<u>under foreseeable conditions, to other lawful consumptive or</u>	945
<u>non-consumptive uses of water or to the quantity or quality</u>	946
<u>of the Waters and Water Dependent Natural Resources of the</u>	947
<u>Basin, and the proposed plans and arrangements for avoidance</u>	948
<u>or mitigation of such impacts; and,</u>	949
<u>f. If a Proposal includes restoration of hydrologic conditions and</u>	950
<u>functions of the Source Watershed, the Party may consider</u>	951
<u>that.</u>	952
<u>Section 4.12. Applicability.</u>	953

1. Minimum Standard. This Standard of Review and Decision shall be 954
used as a minimum standard. Parties may impose a more 955
restrictive decision-making standard for Withdrawals under 956
their authority. It is also acknowledged that although a 957
Proposal meets the Standard of Review and Decision it may not 958
be approved under the laws of the Originating Party that has 959
implemented more restrictive Measures. 960
2. Baseline. 961
- a. To establish a baseline for determining a New or Increased 962
Diversion, Consumptive Use or Withdrawal, each Party shall 963
develop either or both of the following lists for their 964
jurisdiction: 965
- i. A list of existing Withdrawal approvals as of the effective 966
date of the Compact; 967
- ii. A list of the capacity of existing systems as of the effective 968
date of this Compact. The capacity of the existing systems 969
should be presented in terms of Withdrawal capacity, 970
treatment capacity, distribution capacity, or other capacity 971
limiting factors. The capacity of the existing systems must 972
represent the state of the systems. Existing capacity 973
determinations shall be based upon approval limits or the 974
most restrictive capacity information. 975
- For all purposes of this Compact, volumes of Diversions, 976
Consumptive Uses, or Withdrawals of Water set forth in the 977
list(s) prepared by each Party in accordance with this 978
Section, shall constitute the baseline volume. 979
- c. The list(s) shall be furnished to the Regional Body and the 980
Council within one year of the effective date of this 981
Compact. 982
3. Timing of Additional Applications. Applications for New or 983
Increased Withdrawals, Consumptive Uses or Exceptions shall 984

<u>be considered cumulatively within ten years of any</u>	985
<u>application.</u>	986
<u>4. Change of Ownership. Unless a new owner proposes a project that</u>	987
<u>shall result in a Proposal for a New or Increased Diversion</u>	988
<u>or Consumptive Use subject to Regional Review or Council</u>	989
<u>approval, the change of ownership in and of itself shall not</u>	990
<u>require Regional Review or Council approval.</u>	991
<u>5. Groundwater. The Basin surface water divide shall be used for</u>	992
<u>the purpose of managing and regulating New or Increased</u>	993
<u>Diversions, Consumptive Uses or Withdrawals of surface water</u>	994
<u>and groundwater.</u>	995
<u>6. Withdrawal Systems. The total volume of surface water and</u>	996
<u>groundwater resources that supply a common distribution</u>	997
<u>system shall determine the volume of a Withdrawal,</u>	998
<u>Consumptive Use or Diversion.</u>	999
<u>7. Connecting Channels. The watershed of each Great Lake shall</u>	1000
<u>include its upstream and downstream connecting channels.</u>	1001
<u>8. Transmission in Water Lines. Transmission of Water within a</u>	1002
<u>line that extends outside the Basin as it conveys Water from</u>	1003
<u>one point to another within the Basin shall not be considered</u>	1004
<u>a Diversion if none of the Water is used outside the Basin.</u>	1005
<u>9. Hydrologic Units. The Lake Michigan and Lake Huron watersheds</u>	1006
<u>shall be considered to be a single hydrologic unit and</u>	1007
<u>watershed.</u>	1008
<u>10. Bulk Water Transfer. A Proposal to Withdraw Water and to</u>	1009
<u>remove it from the Basin in any container greater than 5.7</u>	1010
<u>gallons shall be treated under this Compact in the same</u>	1011
<u>manner as a Proposal for a Diversion. Each Party shall have</u>	1012
<u>the discretion, within its jurisdiction, to determine the</u>	1013
<u>treatment of Proposals to Withdraw Water and to remove it</u>	1014
<u>from the Basin in any container of 5.7 gallons or less.</u>	1015

<u>Section 4.13. Exemptions.</u>	1016
<u>Withdrawals from the Basin for the following purposes are exempt</u>	1017
<u>from the requirements of Article 4:</u>	1018
1. <u>To supply vehicles, including vessels and aircraft, whether for</u>	1019
<u>the needs of the persons or animals being transported or for</u>	1020
<u>ballast or other needs related to the operation of the</u>	1021
<u>vehicles.</u>	1022
2. <u>To use in a non-commercial project on a short-term basis for</u>	1023
<u>firefighting, humanitarian, or emergency response purposes.</u>	1024
<u>Section 4.14. U.S. Supreme Court Decree: <i>Wisconsin et al. v.</i></u>	1025
<u><i>Illinois et al.</i></u>	1026
1. <u>Notwithstanding any terms of this Compact to the contrary, with</u>	1027
<u>the exception of Paragraph 5 of this Section, current, New or</u>	1028
<u>Increased Withdrawals, Consumptive Uses and Diversions of</u>	1029
<u>Basin Water by the State of Illinois shall be governed by the</u>	1030
<u>terms of the United States Supreme Court decree in <i>Wisconsin</i></u>	1031
<u><i>et al. v. Illinois et al.</i> and shall not be subject to the</u>	1032
<u>terms of this Compact nor any rules or regulations</u>	1033
<u>promulgated pursuant to this Compact. This means that, with</u>	1034
<u>the exception of Paragraph 5 of this Section, for purposes of</u>	1035
<u>this Compact, current, New or Increased Withdrawals,</u>	1036
<u>Consumptive Uses and Diversions of Basin Water within the</u>	1037
<u>State of Illinois shall be allowed unless prohibited by the</u>	1038
<u>terms of the United States Supreme Court decree in <i>Wisconsin</i></u>	1039
<u><i>et al. v. Illinois et al.</i></u>	1040
2. <u>The Parties acknowledge that the United States Supreme Court</u>	1041
<u>decree in <i>Wisconsin et al. v. Illinois et al.</i> shall continue</u>	1042
<u>in full force and effect, that this Compact shall not modify</u>	1043
<u>any terms thereof and that this Compact shall grant the</u>	1044
<u>parties no additional rights, obligations, remedies or</u>	1045
<u>defenses thereto. The Parties specifically acknowledge that</u>	1046

- this Compact shall not prohibit or limit the State of Illinois in any manner from seeking additional Basin Water as allowed under the terms of the United States Supreme Court decree in *Wisconsin et al. v. Illinois et al.*, any other party from objecting to any request by the State of Illinois for additional Basin Water under the terms of said decree, or any party from seeking any other type of modification to said decree. If an application is made by any party to the Supreme Court of the United States to modify said decree, the Parties to this Compact who are also parties to the decree shall seek formal input from the Canadian Provinces of Ontario and Quebec, with respect to the proposed modification, use best efforts to facilitate the appropriate participation of said Provinces in the proceedings to modify the decree, and shall not unreasonably impede or restrict such participation. 1047
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3. With the exception of Paragraph 5 of this Section, because current, New or Increased Withdrawals, Consumptive Uses and Diversions of Basin Water by the State of Illinois are not subject to the terms of this Compact, the State of Illinois is prohibited from using any term of this Compact, including Section 4.9, to seek New or Increased Withdrawals, Consumptive Uses or Diversions of Basin Water. 1062
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4. With the exception of Paragraph 5 of this Section, because Sections 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 4.11, 4.12 (Paragraphs 1, 2, 3, 4, 6 and 10 only) and 4.13 of this Compact all relate to current, New or Increased Withdrawals, Consumptive Uses and Diversions of Basin Waters, said provisions do not apply to the State of Illinois. All other provisions of this Compact not listed in the preceding sentence shall apply to the State of Illinois, including the Water Conservation Programs provision of Section 4.2. 1069
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5. In the event of a Proposal for a Diversion of Basin Water for 1078

use outside the territorial boundaries of the Parties to this Compact, decisions by the State of Illinois regarding such a Proposal would be subject to all terms of this Compact, except Paragraphs 1, 3 and 4 of this Section. 1079
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6. For purposes of the State of Illinois' participation in this Compact, the entirety of this Section 4.14 is necessary for the continued implementation of this Compact and, if severed, this Compact shall no longer be binding on or enforceable by or against the State of Illinois. 1083
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Section 4.15. Assessment of Cumulative Impacts. 1089

1. The Parties in cooperation with the Provinces shall collectively conduct within the Basin, on a Great Lake watershed and St. Lawrence River Basin basis, a periodic assessment of the Cumulative Impacts of Withdrawals, Diversions and Consumptive Uses from the Waters of the Basin, every five years or each time the incremental Basin Water losses reach 50 million gallons per day average in any 90-day period in excess of the quantity at the time of the most recent assessment, whichever comes first, or at the request of one or more of the Parties. The assessment shall form the basis for a review of the Standard of Review and Decision, Council and Party regulations and their application. This assessment shall: 1090
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a. Utilize the most current and appropriate guidelines for such a review, which may include but not be limited to Council on Environmental Quality and Environment Canada guidelines; 1103
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b. Give substantive consideration to climate change or other significant threats to Basin Waters and take into account the current state of scientific knowledge, or uncertainty, and appropriate Measures to exercise caution in cases of 1106
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<u>uncertainty if serious damage may result;</u>	1110
<u>c. Consider Adaptive Management principles and approaches,</u>	1111
<u>recognizing, considering and providing adjustments for the</u>	1112
<u>uncertainties in, and evolution of science concerning the</u>	1113
<u>Basin's Water resources, watersheds and Ecosystems, including</u>	1114
<u>potential changes to Basin-wide processes, such as lake level</u>	1115
<u>cycles and climate.</u>	1116
<u>2. The Parties have the responsibility of conducting this</u>	1117
<u>Cumulative Impact assessment. Applicants are not required to</u>	1118
<u>participate in this assessment.</u>	1119
<u>3. Unless required by other statutes, Applicants are not required</u>	1120
<u>to conduct a separate Cumulative Impact assessment in</u>	1121
<u>connection with an Application but shall submit information</u>	1122
<u>about the potential impacts of a Proposal to the quantity or</u>	1123
<u>quality of the Waters and Water Dependent Natural Resources</u>	1124
<u>of the applicable Source Watershed. An Applicant may,</u>	1125
<u>however, provide an analysis of how their Proposal meets the</u>	1126
<u>no significant adverse Cumulative Impact provision of the</u>	1127
<u>Standard of Review and Decision.</u>	1128
<u>ARTICLE 5</u>	1129
<u>TRIBAL CONSULTATION</u>	1130
<u>Section 5.1. Consultation with Tribes.</u>	1131
<u>1. In addition to all other opportunities to comment pursuant to</u>	1132
<u>Section 6.2, appropriate consultations shall occur with</u>	1133
<u>federally recognized Tribes in the Originating Party for all</u>	1134
<u>Proposals subject to Council or Regional Review pursuant to</u>	1135
<u>this Compact. Such consultations shall be organized in the</u>	1136
<u>manner suitable to the individual Proposal and the laws and</u>	1137
<u>policies of the Originating Party.</u>	1138
<u>2. All federally recognized Tribes within the Basin shall receive</u>	1139
<u>reasonable notice indicating that they have an opportunity to</u>	1140

comment in writing to the Council or the Regional Body, or 1141
both, and other relevant organizations on whether the 1142
Proposal meets the requirements of the Standard of Review and 1143
Decision when a Proposal is subject to Regional Review or 1144
Council approval. Any notice from the Council shall inform 1145
the Tribes of any meeting or hearing that is to be held under 1146
Section 6.2 and invite them to attend. The Parties and the 1147
Council shall consider the comments received under this 1148
Section before approving, approving with modifications or 1149
disapproving any Proposal subject to Council or Regional 1150
Review. 1151

3. In addition to the specific consultation mechanisms described 1152
above, the Council shall seek to establish mutually agreed 1153
upon mechanisms or processes to facilitate dialogue with, and 1154
input from federally recognized Tribes on matters to be dealt 1155
with by the Council; and, the Council shall seek to establish 1156
mechanisms and processes with federally recognized Tribes 1157
designed to facilitate on-going scientific and technical 1158
interaction and data exchange regarding matters falling 1159
within the scope of this Compact. This may include 1160
participation of tribal representatives on advisory 1161
committees established under this Compact or such other 1162
processes that are mutually-agreed upon with federally 1163
recognized Tribes individually or through duly-authorized 1164
intertribal agencies or bodies. 1165

ARTICLE 6 1166

PUBLIC PARTICIPATION 1167

Section 6.1. Meetings, Public Hearings and Records. 1168

1. The Parties recognize the importance and necessity of public 1169
participation in promoting management of the Water Resources 1170
of the Basin. Consequently, all meetings of the Council shall 1171
be open to the public, except with respect to issues of 1172

<u>personnel.</u>	1173
<u>2. The minutes of the Council shall be a public record open to inspection at its offices during regular business hours.</u>	1174 1175
<u>Section 6.2. Public Participation.</u>	1176
<u>It is the intent of the Council to conduct public participation processes concurrently and jointly with processes undertaken by the Parties and through Regional Review. To ensure adequate public participation, each Party or the Council shall ensure procedures for the review of Proposals subject to the Standard of Review and Decision consistent with the following requirements:</u>	1177 1178 1179 1180 1181 1182
<u>1. Provide public notification of receipt of all Applications and a reasonable opportunity for the public to submit comments before Applications are acted upon.</u>	1183 1184 1185
<u>2. Assure public accessibility to all documents relevant to an Application, including public comment received.</u>	1186 1187
<u>3. Provide guidance on standards for determining whether to conduct a public meeting or hearing for an Application, time and place of such a meeting(s) or hearing(s), and procedures for conducting of the same.</u>	1188 1189 1190 1191
<u>4. Provide the record of decision for public inspection including comments, objections, responses and approvals, approvals with conditions and disapprovals.</u>	1192 1193 1194
<u>ARTICLE 7</u>	1195
<u>DISPUTE RESOLUTION AND ENFORCEMENT</u>	1196
<u>Section 7.1. Good Faith Implementation.</u>	1197
<u>Each of the Parties pledges to support implementation of all provisions of this Compact, and covenants that its officers and agencies shall not hinder, impair or prevent any other Party carrying out any provision of this Compact.</u>	1198 1199 1200 1201
<u>Section 7.2. Alternative Dispute Resolution.</u>	1202

1. Desiring that this Compact be carried out in full, the Parties agree that disputes between the Parties regarding interpretation, application and implementation of this Compact shall be settled by alternative dispute resolution. 1203
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2. The Council, in consultation with the Provinces, shall provide by rule procedures for the resolution of disputes pursuant to this section. 1207
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Section 7.3. Enforcement. 1210

1. Any Person aggrieved by any action taken by the Council pursuant to the authorities contained in this Compact shall be entitled to a hearing before the Council. Any Person aggrieved by a Party action shall be entitled to a hearing pursuant to the relevant Party's administrative procedures and laws. After exhaustion of such administrative remedies, (i) any aggrieved Person shall have the right to judicial review of a Council action in the United States District Court for the District of Columbia or the District Court in which the Council maintains offices, provided such action is commenced within 90 days; and, (ii) any aggrieved Person shall have the right to judicial review of a Party's action in the relevant Party's court of competent jurisdiction, provided that an action or proceeding for such review is commenced within the time frames provided for by the Party's law. For the purposes of this paragraph, a State or Province is deemed to be an aggrieved Person with respect to any Party action pursuant to this Compact. 1211
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2.a. Any Party or the Council may initiate actions to compel compliance with the provisions of this Compact, and the rules and regulations promulgated hereunder by the Council. Jurisdiction over such actions is granted to the court of the relevant Party, as well as the United States District Court for the District of Columbia and the District Court in which 1229
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<u>the Council maintains offices. The remedies available to any</u>	1235
<u>such court shall include, but not be limited to, equitable</u>	1236
<u>relief and civil penalties.</u>	1237
<u>b. Each Party may issue orders within its respective jurisdiction</u>	1238
<u>and may initiate actions to compel compliance with the</u>	1239
<u>provisions of its respective statutes and regulations adopted</u>	1240
<u>to implement the authorities contemplated by this Compact in</u>	1241
<u>accordance with the provisions of the laws adopted in each</u>	1242
<u>Party's jurisdiction.</u>	1243
<u>3. Any aggrieved Person, Party or the Council may commence a civil</u>	1244
<u>action in the relevant Party's courts and administrative</u>	1245
<u>systems to compel any Person to comply with this Compact</u>	1246
<u>should any such Person, without approval having been given,</u>	1247
<u>undertake a New or Increased Withdrawal, Consumptive Use or</u>	1248
<u>Diversion that is prohibited or subject to approval pursuant</u>	1249
<u>to this Compact.</u>	1250
<u>a. No action under this subsection may be commenced if:</u>	1251
<u>i. The Originating Party or Council approval for the New or</u>	1252
<u>Increased Withdrawal, Consumptive Use or Diversion has been</u>	1253
<u>granted; or,</u>	1254
<u>ii. The Originating Party or Council has found that the New or</u>	1255
<u>Increased Withdrawal, Consumptive Use or Diversion is not</u>	1256
<u>subject to approval pursuant to this Compact.</u>	1257
<u>b. No action under this subsection may be commenced unless:</u>	1258
<u>i. A Person commencing such action has first given 60 days' prior</u>	1259
<u>notice to the Originating Party, the Council and Person</u>	1260
<u>alleged to be in noncompliance; and,</u>	1261
<u>ii. Neither the Originating Party nor the Council has commenced</u>	1262
<u>and is diligently prosecuting appropriate enforcement actions</u>	1263
<u>to compel compliance with this Compact.</u>	1264

The available remedies shall include equitable relief, and the prevailing or substantially prevailing party may recover the costs of litigation, including reasonable attorney and expert witness fees, whenever the court determines that such an award is appropriate. 1265
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4. Each of the Parties may adopt provisions providing additional enforcement mechanisms and remedies including equitable relief and civil penalties applicable within its jurisdiction to assist in the implementation of this Compact. 1270
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ARTICLE 8 1274

ADDITIONAL PROVISIONS 1275

Section 8.1. Effect on Existing Rights. 1276

1. Nothing in this Compact shall be construed to affect, limit, diminish or impair any rights validly established and existing as of the effective date of this Compact under State or federal law governing the Withdrawal of Waters of the Basin. 1277
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2. Nothing contained in this Compact shall be construed as affecting or intending to affect or in any way to interfere with the law of the respective Parties relating to common law Water rights. 1282
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3. Nothing in this Compact is intended to abrogate or derogate from treaty rights or rights held by any Tribe recognized by the federal government of the United States based upon its status as a Tribe recognized by the federal government of the United States. 1286
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4. An approval by a Party or the Council under this Compact does not give any property rights, nor any exclusive privileges, nor shall it be construed to grant or confer any right, title, easement or interest in, to or over any land belonging to or held in trust by a Party; neither does it authorize any 1291
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injury to private property or invasion of private rights, nor 1296
infringement of federal, State or local laws or regulations; 1297
nor does it obviate the necessity of obtaining federal assent 1298
when necessary. 1299

Section 8.2. Relationship to Agreements Concluded by the United 1300
States of America. 1301

1. Nothing in this Compact is intended to provide nor shall be 1302
construed to provide, directly or indirectly, to any Person 1303
any right, claim or remedy under any treaty or international 1304
agreement nor is it intended to derogate any right, claim or 1305
remedy that already exists under any treaty or international 1306
agreement. 1307

2. Nothing in this Compact is intended to infringe nor shall be 1308
construed to infringe upon the treaty power of the United 1309
States of America, nor shall any term hereof be construed to 1310
alter or amend any treaty or term thereof that has been or 1311
may hereafter be executed by the United States of America. 1312

3. Nothing in this Compact is intended to affect nor shall be 1313
construed to affect the application of the Boundary Waters 1314
Treaty of 1909 whose requirements continue to apply in 1315
addition to the requirements of this Compact. 1316

Section 8.3. Confidentiality. 1317

1. Nothing in this Compact requires a Party to breach 1318
confidentiality obligations or requirements prohibiting 1319
disclosure, or to compromise security of commercially 1320
sensitive or proprietary information. 1321

2. A Party may take measures, including but not limited to 1322
deletion and redaction, deemed necessary to protect any 1323
confidential, proprietary or commercially sensitive 1324
information when distributing information to other Parties. 1325
The Party shall summarize or paraphrase any such information 1326

in a manner sufficient for the Council to exercise its 1327
authorities contained in this Compact. 1328

Section 8.4. Additional Laws. 1329

Nothing in this Compact shall be construed to repeal, modify or 1330
qualify the authority of any Party to enact any legislation or 1331
enforce any additional conditions and restrictions regarding the 1332
management and regulation of Waters within its jurisdiction. 1333

Section 8.5. Amendments and Supplements. 1334

The provisions of this Compact shall remain in full force and 1335
effect until amended by action of the governing bodies of the 1336
Parties and consented to and approved by any other necessary 1337
authority in the same manner as this Compact is required to be 1338
ratified to become effective. 1339

Section 8.6. Severability. 1340

Should a court of competent jurisdiction hold any part of this 1341
Compact to be void or unenforceable, it shall be considered 1342
severable from those portions of the Compact capable of continued 1343
implementation in the absence of the voided provisions. All other 1344
provisions capable of continued implementation shall continue in 1345
full force and effect. 1346

Section 8.7. Duration of Compact and Termination. 1347

Once effective, the Compact shall continue in force and remain 1348
binding upon each and every Party unless terminated. 1349

This Compact may be terminated at any time by a majority vote of 1350
the Parties. In the event of such termination, all rights 1351
established under it shall continue unimpaired. 1352

ARTICLE 9 1353

EFFECTUATION 1354

Section 9.1. Repealer. 1355

All acts and parts of acts inconsistent with this act are to the 1356

extent of such inconsistency hereby repealed. 1357

Section 9.2. Effectuation by Chief Executive. 1358

The Governor is authorized to take such action as may be necessary 1359

and proper in his or her discretion to effectuate the Compact and 1360

the initial organization and operation thereunder. 1361

Section 9.3. Entire Agreement. 1362

The Parties consider this Compact to be complete and an integral 1363

whole. Each provision of this Compact is considered material to 1364

the entire Compact, and failure to implement or adhere to any 1365

provision may be considered a material breach. Unless otherwise 1366

noted in this Compact, any change or amendment made to the Compact 1367

by any Party in its implementing legislation or by the U.S. 1368

Congress when giving its consent to this Compact is not considered 1369

effective unless concurred in by all Parties. 1370

Section 9.4. Effective Date and Execution. 1371

This Compact shall become binding and effective when ratified 1372

through concurring legislation by the states of Illinois, Indiana, 1373

Michigan, Minnesota, New York, Ohio and Wisconsin and the 1374

Commonwealth of Pennsylvania and consented to by the Congress of 1375

the United States. This Compact shall be signed and sealed in nine 1376

identical original copies by the respective chief executives of 1377

the signatory Parties. One such copy shall be filed with the 1378

Secretary of State of each of the signatory Parties or in 1379

accordance with the laws of the state in which the filing is made, 1380

and one copy shall be filed and retained in the archives of the 1381

Council upon its organization. The signatures shall be affixed and 1382

attested under the following form: 1383

In Witness Whereof, and in evidence of the adoption and enactment 1384

into law of this Compact by the legislatures of the signatory 1385

parties and consent by the Congress of the United States, the 1386

respective Governors do hereby, in accordance with the authority 1387

conferred by law, sign this Compact in nine duplicate original 1388
copies, attested by the respective Secretaries of State, and have 1389
caused the seals of the respective states to be hereunto affixed 1390
this _____ day of (month), (year). 1391

Sec. 1522.02. The governor, ex officio, shall serve as this 1392
state's administrator of the great lakes-st. Lawrence river basin 1393
water resources compact. The governor shall appoint the director 1394
of natural resources as the governor's alternate for purposes of 1395
attending all meetings of the great lakes-st. Lawrence river basin 1396
water resources council and voting on matters before the council 1397
in the governor's absence. 1398

The governor shall do all of the following as administrator: 1399

(A) Receive copies of all agreements that are entered into 1400
pursuant to the compact by this state or its political 1401
subdivisions and other states or their political subdivisions; 1402

(B) Consult with, advise, and aid this state, other states, 1403
and political subdivisions in the formulation of such agreements; 1404

(C) Make any recommendations to the general assembly, 1405
legislatures of other states, governmental agencies, and political 1406
subdivisions that the governor considers desirable in order to 1407
effectuate the purposes of the compact; 1408

(D) Consult with and cooperate with the compact 1409
administrators of other states that are parties to the compact. 1410

Sec. 1522.03. (A) Subject to the limitations established in 1411
division (B) of section 1522.05 of the Revised Code, the director 1412
of natural resources shall do both of the following: 1413

(1) Adopt rules in accordance with Chapter 119. of the 1414
Revised Code for the implementation, administration, and 1415
enforcement of this chapter; 1416

(2) Enforce the great lakes-st. Lawrence river basin water resources compact and take appropriate actions to effectuate its purposes and intent. 1417
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(B) Subject to the limitations established in division (B) of section 1522.05 of the Revised Code, any appropriate state agency or governmental officer shall enforce the compact and take appropriate actions to effectuate its purpose and intent. 1420
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Sec. 1522.04. (A) Prior to casting a vote under Section 3.1 of the great lakes-st. Lawrence river basin water resources compact with respect to any regulation that amends or revises the standard of review and decision, the governor or the governor's alternate shall obtain authorization from the general assembly for the vote. The governor or the governor's alternate shall obtain the authorization via a concurrent resolution adopted or bill enacted by the general assembly. The governor or the governor's alternate shall exercise the vote consistent with the terms of the general assembly's authorization. The procedures established in this section are material requirements for adoption of any such regulation in accordance with Section 3.1 of the compact and Ohio's respective statutory authority and procedures. 1424
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(B) No regulation duly adopted as provided for in Section 3.1 of the compact that amends or revises the standard of review and decision as set forth in the compact may be adopted by the director of natural resources unless the regulation is first approved by the general assembly in the same manner as a statutory enactment. 1437
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Sec. 1522.05. (A) Pursuant to Section 9.2 of the great lakes-st. Lawrence river basin water resources compact, the governor may take such actions as are necessary for the initial organization and operation of the great lakes-st. Lawrence river 1443
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basin water resources council created in Section 2.1 of the 1447
compact. Agencies of the state are hereby authorized to cooperate 1448
with the council. 1449

(B)(1) The governor, the department of natural resources, or 1450
any other agency of the state shall not adopt rules or implement 1451
any program regulating the use, withdrawal, consumptive use, or 1452
diversion of water pursuant to Sections 4.10 and 4.12.2 of the 1453
compact unless the general assembly enacts legislation after the 1454
effective date of this section authorizing the implementation of 1455
the program or adoption of rules. 1456

In addition, the governor, the department of natural 1457
resources, or any other agency of the state shall not adopt rules 1458
or implement any mandatory program governing water conservation 1459
and efficiency pursuant to Section 4.2 of the compact unless the 1460
general assembly enacts legislation after the effective date of 1461
the compact authorizing the implementation of the program or 1462
adoption of rules. However, the governor, the department of 1463
natural resources, or any other agency of the state may adopt 1464
rules concerning and may implement voluntary water conservation 1465
and efficiency programs without authorization from the general 1466
assembly. Such voluntary programs shall not include any mandatory 1467
requirements. 1468

(2) Division (B)(1) of this section does not prohibit the 1469
effectuation of Sections 4.8 and 4.9 of the compact after the 1470
effective date of the compact or prohibit the continued 1471
implementation and enforcement by the governor or applicable 1472
agencies of this state of laws, rules, or programs regulating the 1473
use, withdrawal, consumptive use, or diversion of water that are 1474
in effect on or before the effective date of this section. 1475

Sec. 1522.06. It is the intent of the general assembly that 1476
any incorporation of water into a product that is produced within 1477

the great lakes-st. Lawrence river basin and packaged and intended 1478
for intermediate or end-use consumers, whether distributed inside 1479
or outside the basin, is a consumptive use and does not constitute 1480
a diversion for purposes of the great lakes-st. Lawrence river 1481
basin water resources compact. A proposal to withdraw water and 1482
remove it from the basin in a container greater than five and 1483
seven-tenths gallons in capacity shall be treated as a proposal 1484
for a diversion as provided under Section 4.12.10 of the great 1485
lakes-st. Lawrence river basin water resources compact. 1486

Sec. 1522.07. (A)(1) It is the intent of the general assembly 1487
that for purposes of establishing the baseline for determining a 1488
new or increased diversion, consumptive use, or withdrawal 1489
pursuant to Section 4.12.2 of the great lakes-st. Lawrence river 1490
basin water resources compact, the amount of each existing 1491
diversion, consumptive use, or withdrawal shall be the larger of 1492
either of the following: 1493

(a) The applicable limitation specified in a permit issued 1494
under section 1501.32, 1501.33, or 1501.34 of the Revised Code or 1495
another permit issued by an agency of the state that specifically 1496
regulates and limits the amount of a water diversion, consumptive 1497
use, or withdrawal; 1498

(b) The physical capacity of the withdrawal system of the 1499
applicable facility as of the effective date of the great 1500
lakes-st. Lawrence river basin water resources compact. 1501

(2) For purposes of division (A)(1) of this section, both of 1502
the following apply: 1503

(a) A wastewater discharge permit issued under Chapter 6111. 1504
of the Revised Code or the Federal Water Pollution Control Act as 1505
defined in section 6111.01 of the Revised Code shall not be 1506
considered a permit that regulates or limits the amount of an 1507
existing diversion, consumptive use, or withdrawal. 1508

(b) Approval of a public water supply system under Chapter 6109. of the Revised Code shall not be considered a permit that regulates or limits the amount of an existing diversion, consumptive use, or withdrawal unless the approval contains a specific and legally enforceable limitation on the amount of the diversion, consumptive use, or withdrawal. 1509
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(B)(1) It is the understanding and intent of the general assembly that Section 4.11.2 of the great lakes-st. Lawrence river basin water resources compact as enacted in section 1522.01 of the Revised Code shall be interpreted to require that a withdrawal or consumptive use will be implemented so as to ensure that the withdrawal or consumptive use will result in no significant individual or cumulative adverse impacts on the quantity or quality of the waters and water dependent natural resources of either of the following: 1515
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(a) The basin considered as a whole; 1524

(b) The applicable source watershed of lake Erie considered as a whole. 1525
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(2) In addition, it is the understanding and intent of the general assembly that impacts of a withdrawal or consumptive use on the quantity or quality of waters and water dependent natural resources of more localized areas that affect less than the basin or an applicable source watershed as a whole are to be considered a part of the evaluation of reasonable use as provided in Section 4.11.5 of the compact. 1527
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The governor and the governor's alternate on the great lakes-st. Lawrence river basin water resources council shall advise the council, the other states that are proposed parties to the compact, and the United States congress with respect to the understanding and statement of legislative intent set forth in division (B) of this section and shall inform them that such 1534
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understanding and intent are a material consideration to the 1540
general assembly's concurrence in the great lakes-st. Lawrence 1541
river basin water resources compact. Prior to seeking the consent 1542
of the United States congress to the compact, the governor and the 1543
governor's alternate on the council shall actively seek the 1544
concurrence of the council and the other state parties to the 1545
compact with respect to the understanding and legislative intent 1546
set forth in division (B) of this section, and the governor shall 1547
report to the general assembly periodically concerning those 1548
efforts. 1549

Sec. 1522.08. (A) It is the intent and understanding of the 1550
general assembly that the enactment of the great lakes-st. 1551
Lawrence river basin water resources compact and its 1552
implementation in this state do not and shall not in any manner 1553
abrogate any private property rights established under the Revised 1554
Code or the common law of this state. In addition, it is the 1555
intent and understanding of the general assembly that the 1556
enactment of the great lakes-st. Lawrence river basin water 1557
resources compact does not confer or extend any public trust 1558
rights and does not confer any proprietary ownership rights to the 1559
state or any public entity over the ground water or surface water 1560
in the great lakes-st. Lawrence river basin in this state. 1561

(B) It is the intent and understanding of the general 1562
assembly that the great lakes-st. Lawrence river basin water 1563
resources compact does not create any cause of action that may be 1564
brought against any person beyond those causes of action that are 1565
specifically authorized under Section 7.3 of the compact. 1566

Section 2. It is the intent of the General Assembly that on 1567
the effective date of the Great Lakes-St. Lawrence River Basin 1568
Water Resources Compact, as that date is specified in Section 9.4 1569
of the Compact as enacted in section 1522.01 of the Revised Code 1570

by this act, both of the following apply: 1571

(A) All provisions of the Revised Code that were inconsistent 1572
with the Compact prior to the effective date of the Compact shall 1573
have been amended or repealed in order to conform with the Compact 1574
in accordance with section 9.1 of the Compact. 1575

(B) Sections 1521.15 and 1521.16 of the Revised Code, as they 1576
exist on the effective date of this act or as subsequently 1577
amended, shall be used to implement Section 4.1 of the Compact. 1578

Section 3. (A) Not later than three months after the 1579
effective date of this section, the Director of Natural Resources 1580
shall convene an advisory board consisting of the following 1581
persons with an interest in the Great Lakes-St. Lawrence River 1582
Basin Water Resources Compact: 1583

(1) The Director of Natural Resources or the Director's 1584
designee, who shall serve as chairperson of the advisory board; 1585

(2) The Director of Environmental Protection or the 1586
Director's designee; 1587

(3) The Director of Development or the Director's designee; 1588

(4) The following members appointed by the Governor: 1589

(a) One water quality expert from the faculty or staff of an 1590
Ohio college or university; 1591

(b) One representative of a statewide environmental advocacy 1592
organization; 1593

(c) One representative of a local environmental advocacy 1594
organization in the Lake Erie Basin; 1595

(d) One representative of a sustainable economic development 1596
organization in the Lake Erie Basin; 1597

(e) One representative of the travel and tourism industry; 1598

(f) One representative of the electric utility industry;	1599
(g) One representative of a county government in the Lake Erie Basin.	1600 1601
(5) The following members appointed by the President of the Senate:	1602 1603
(a) Two members of the Senate who shall not be members of the same political party;	1604 1605
(b) One representative of the bottled water industry;	1606
(c) One representative of a statewide land conservation advocacy organization;	1607 1608
(d) One representative of agricultural interests in the Lake Erie Basin;	1609 1610
(e) One representative of the aggregates industry;	1611
(f) One representative of the pulp and paper industry;	1612
(g) One representative of a large manufacturer with a facility located within the Lake Erie Basin;	1613 1614
(h) One member of the public.	1615
(6) The following members appointed by the Speaker of the House of Representatives:	1616 1617
(a) Two members of the House of Representatives who shall not be members of the same political party;	1618 1619
(b) One representative of a municipal government in the Lake Erie Basin;	1620 1621
(c) One expert in hydrogeology from the faculty or staff of an Ohio college or university;	1622 1623
(d) One representative of a locally based organization in the Lake Erie Basin that assists in the development and implementation of a plan for the protection and management of surface and ground	1624 1625 1626

water resources in a watershed;	1627
(e) One representative of a fish and wildlife advocacy organization;	1628
(f) One representative of residential developers;	1630
(g) One representative of the chemical industry;	1631
(h) One representative of the petroleum industry with a facility located within the Lake Erie Basin.	1632
All appointments shall be made to the advisory board not later than thirty days after the effective date of this section.	1634
The advisory board shall meet on a regular basis. Vacancies on the advisory board shall be filled in the manner provided for original appointments. Members of the advisory board shall receive no compensation for serving on the board. The Department of Natural Resources shall provide technical support to the advisory board.	1635
(B) The advisory board shall be convened for the purpose of developing recommendations for legislation that is necessary to implement and effectuate the requirements and purposes of the Great Lakes-St. Lawrence River Basin Water Resources Compact. The recommendations shall address, but not be limited to, the following:	1636
(1) The evaluation and recommendation of the threshold levels to be included in the implementing legislation for regulating new or increased water withdrawals in the state, considering at least all of the following:	1637
(a) The number of withdrawals that will be regulated;	1638
(b) The relative impact of those withdrawals;	1639
(c) The practicality of regulating those withdrawals;	1640
(d) The alternatives that are available in the establishment of a permitting program in order to meet the water management objectives of this state.	1641
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(2) The establishment of requirements regarding the review of lists of existing water users in the portion of the Great Lakes-St. Lawrence River Basin that is in this state;

(3) The establishment of a process for use by persons that wish to appeal their inclusion in the list of existing water users;

(4) The establishment of conservation objectives with respect to the Great Lakes-St. Lawrence River Basin Water Resources Compact and the development of the state's water conservation and efficiency programs;

(5) The method for determining the capacity of existing facilities as required in Section 4.12.2 of the Great Lakes-St. Lawrence River Basin Water Resources Compact.

(C) The advisory board shall present its final recommendations to the Governor and the General Assembly not later than eighteen months after the effective date of this section. It is the intent of the General Assembly that the recommendations of the advisory board will represent a consensus of the board's members regarding the issues presented to and discussed by the board. However, if a consensus cannot be reached on any or all of the issues before the board, one or more minority opinions may accompany the recommendations of the board.

(D) Upon submission of its recommendations under division (C) of this section, the advisory board shall cease to exist.

Section 4. If the state of Illinois, Indiana, Michigan, Minnesota, New York, or Wisconsin or the commonwealth of Pennsylvania fails to enact the Great Lakes-St. Lawrence River Basin Water Resources Compact not later than three years after the effective date of this section, Ohio reserves the right to reconsider its enactment of the Compact and, if necessary, repeal

the Compact in its entirety. 1687

Section 5. Text that is italicized in the Great Lakes-St. 1688
Lawrence River Basin Water Resources Compact as presented in this 1689
act shall not be italicized but rather underlined in publications 1690
of the Compact. 1691

Section 6. Sections 1, 2, 3, 4, and 5 of this act take effect
December 8, 2008.