

2007 DRAFTING REQUEST

Senate Substitute Amendment (SSA-SB523)

Received: 03/04/2008

Received By: btradewe

Wanted: As time permits

Identical to LRB:

For: Mark Miller (608) 266-9170

By/Representing: John Stolzenberg, Leg. Council

This file may be shown to any legislator: NO

Drafter: btradewe

May Contact:

Addl. Drafters:

Subject: Environment - water quality

Extra Copies:

Submit via email: YES

Requester's email: Sen.Miller@legis.wisconsin.gov

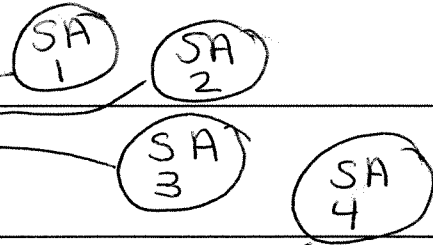
Carbon copy (CC:) to: John.Stolzenberg@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Great Lakes Water Resources Compact implementation



Instructions:

SB 523 plus 07a1529, 07a1530, 07a1531, 07a1532

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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FE Sent For:

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State of Wisconsin
2007 - 2008 LEGISLATURE

LRBs0338/P1

8:30 a.m.

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SENATE SUBSTITUTE AMENDMENT ,

TO 2007 SENATE BILL 523

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Releen vt

1 AN ACT *to repeal* 196.98, 281.35 (2) (a), 281.35 (3), 281.35 (8) and 281.35 (10) (a)
2 4.; *to renumber* 281.35 (2) (b) and 283.83; *to renumber and amend* 30.18 (2)
3 (b) and 281.35 (11) (f); *to amend* 196.49 (2), 281.34 (5) (e) 1., 281.35 (1) (b) 2.,
4 281.35 (4) (a) (intro.), 281.35 (5) (a) 13., 281.35 (5) (b), 281.35 (5) (c) (intro.),
5 281.35 (5) (d) 2., 281.35 (9) (a), 281.35 (11) (intro.), 281.35 (12) (c), 281.41 (1) (c),
6 281.94 (1), 281.95 and 281.98 (1); and *to create* 14.95, 30.18 (2) (b) 2., 30.208
7 (3m), 281.34 (5) (dm), 281.343, 281.344, 281.346, 281.348, 281.35 (1) (bm),
8 281.35 (4) (c), 281.35 (9) (d), 281.41 (4), 283.41 (3) and 283.83 (2) of the statutes;
9 **relating to:** the Great Lakes–St. Lawrence River Basin Water Resources
10 Compact, withdrawals of water from the Great Lakes Basin, water withdrawal

1 and use, water supply planning, water conservation, granting rule-making
2 authority, and providing a penalty.

Analysis by the Legislative Reference Bureau

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 14.95 of the statutes is created to read:

4 **14.95 Great Lakes—St. Lawrence River Basin Water Resources**
5 **Council.** (1) There is created a Great Lakes—St. Lawrence River Basin Water
6 Resources Council as specified in s. 281.343 (2) (a). The governor may take such
7 actions as are necessary for the initial organization and operation of the Great
8 Lakes—St. Lawrence River Basin Water Resources Council.

9 (2) The governor shall serve as this state's representative on the Great
10 Lakes—St. Lawrence River Basin Water Resources Council. In discharging his or
11 her responsibilities under s. 281.343 (2) and (3), the governor may designate the
12 secretary of natural resources as the governor's alternate to attend all meetings of
13 the Great Lakes—St. Lawrence River Basin Water Resources Council and to vote at
14 all meetings of the Great Lakes—St. Lawrence River Basin Water Resources Council
15 in the absence of the governor. Any designee other than the secretary of natural
16 resources shall be nominated by the governor, and with the advice and consent of the
17 senate appointed, to serve at the pleasure of the governor. ✓

18 (3) In discharging his or her responsibilities under s. 281.343 (2) and (3), the
19 governor may appoint an advisor to attend all meetings of the Great Lakes—St.
20 Lawrence River Basin Water Resources Council and its committees. The governor's
21 advisor may not vote at meetings of the council. If the governor appoints an advisor,

1 the governor shall appoint an individual with knowledge of and experience with
2 Great Lakes water management issues.

3 (3m) (a) In this subsection, "standard of review and decision" means the
4 exception standard under s. 281.343 (4n) (d), the decision-making standard under
5 s. 281.343 (4r), and reviews under s. 281.343 (4) to (4z) that do not deal solely with
6 the internal management of the council.

7 (b) Before voting on a rule or regulation under s. 281.343 (3) (c) 1. for the
8 implementation or enforcement of regional review under s. 281.343 (4h), the
9 exception standard under s. 281.343 (4n) (d), or the decision-making standard under
10 s. 281.343 (4r), other than a rule or regulation that deals solely with the internal
11 management of the council or its property, or on a regulation under s. 281.343 (3) (a)
12 2. that amends the standard of review and decision, the governor or his or her
13 alternate shall submit the proposed rule or regulation to the joint committee on
14 legislative organization. The governor or his or her alternate may not vote on the rule
15 or regulation before the 30th day after the date of submission. If the cochairpersons
16 of the committee do not notify the governor or his or her alternate within 30 days
17 after the date of the submission that the committee has scheduled a meeting for the
18 purpose of reviewing the proposed rule or regulation, the governor or his or her
19 alternate may vote on the proposed rule or regulation. If, within 30 days after the
20 date of the submission by the governor or his or her alternate, the cochairpersons of
21 the committee notify the governor or his or her alternate that the committee has
22 scheduled a meeting for the purpose of reviewing the proposed rule or regulation, the
23 governor or his or her alternate may not vote on the proposed rule or regulation
24 before the 60th day after the date of submission. If, within 60 days after the date of
25 submission, the committee does not object to the rule or regulation, the governor or

1 his or her alternate may vote on the proposed rule or regulation. If, within 30 days
2 after the date of submission, the cochairpersons notify the governor or his or her
3 alternate that the committee has scheduled a meeting for the purpose of reviewing
4 the proposed rule or regulation and, within 60 days after the date of submission, the
5 committee objects to the proposed rule or regulation, the governor or his or her
6 alternate may not vote on the proposed rule or regulation. ✓

7 ✓ **SECTION 4.** 30.208 (3m) of the statutes is created to read:

8 30.208 (3m) NOTICE TO DOWNSTREAM COMMUNITIES. When the department
9 receives an application for an individual permit under s. 30.12 for a structure
10 through which water transferred from the Great Lakes basin would be returned to
11 the source watershed through a stream tributary to one of the Great Lakes, the
12 department shall provide notice of the application to the governing body of each city,
13 village, and town through which the stream flows or that is adjacent to the stream
14 downstream from the point at which the water would enter the stream.

15 **SECTION 5.** 196.49 (2) of the statutes is amended to read:

16 196.49 (2) No public utility may begin the construction, installation or
17 operation of any new plant, equipment, property or facility, nor the construction or
18 installation of any extension, improvement or addition to its existing plant,
19 equipment, property, apparatus or facilities unless the public utility has complied
20 with any applicable rule or order of the commission and with s. 281.35, if applicable.
21 If a cooperative association has been incorporated under ch. 185 for the production,
22 transmission, delivery or furnishing of light or power and has filed with the
23 commission a map of the territory to be served by the association and a statement
24 showing that a majority of the prospective consumers in the area are included in the
25 project, no public utility may begin any such construction, installation or operation

1 within the territory until after the expiration of 6 months from the date of filing the
2 map and notice. If the cooperative association has entered into a loan agreement
3 with any federal agency for the financing of its proposed system and has given
4 written notice of the agreement to the commission, no public utility may begin any
5 construction, installation or operation within the territory until 12 months after the
6 date of the loan agreement.

7 **SECTION 6.** 196.98 of the statutes is repealed.

8 **SECTION 7.** 281.34 (5) (dm) of the statutes is created to read:

9 281.34 (5) (dm) *Water supply service area plan.* If a proposed high capacity well
10 is covered by an approved water supply service area plan under s. 281.348, the
11 department may not approve the high capacity well unless it is consistent with that
12 plan.

13 **SECTION 8.** 281.34 (5) (e) 1. of the statutes is amended to read:

14 281.34 (5) (e) 1. If s. 281.35 (4) applies to a proposed high capacity well, the
15 department shall include in the approval conditions that ensure that the high
16 capacity well complies with s. 281.35 (4) to (6).

17 **SECTION 9.** 281.343 of the statutes is created to read:

18 **281.343 Great Lakes—St. Lawrence River Basin Water Resources**
19 **Compact. (1) RATIFICATION.** The Great Lakes—St. Lawrence River Basin Water
20 Resources Compact, contained in subs. (1e) to (9), is ratified and approved, as
21 implemented and interpreted in ss. 14.95, 281.346, and 281.348.

22 **(1e) DEFINITIONS.** In this section, except as otherwise required by the context:

23 (a) "Adaptive management" means a water resources management system that
24 provides a systematic process for evaluation, monitoring, and learning from the
25 outcomes of operational programs and adjustment of policies, plans, and programs

1 based on experience and the evolution of scientific knowledge concerning water
2 resources and water dependent natural resources.

3 (am) "Agreement" means the Great Lakes—St. Lawrence River Basin
4 Sustainable Water Resources Agreement.

5 (b) "Applicant" means a person who is required to submit a proposal that is
6 subject to management and regulation under this compact. "Application" has a
7 corresponding meaning.

8 (c) "Basin" or "Great Lakes—St. Lawrence River Basin" means the watershed
9 of the Great Lakes and the St. Lawrence River upstream from Trois-Rivieres,
10 Quebec within the jurisdiction of the parties.

11 (cm) "Basin ecosystem" or "Great Lakes—St. Lawrence River Basin ecosystem"
12 means the interacting components of air, land, water, and living organisms,
13 including humankind, within the basin.

14 (d) "Community within a straddling county" means any incorporated city,
15 town, or the equivalent thereof, that is located outside the basin but wholly within
16 a county that lies partly within the basin and that is not a straddling community.

17 (dm) "Compact" means this compact.

18 (e) "Consumptive use" means that portion of the water withdrawn or withheld
19 from the basin that is lost or otherwise not returned to the basin due to evaporation,
20 incorporation into products, or other processes.

21 (em) "Council" means the Great Lakes—St. Lawrence River Basin Water
22 Resources Council, created by this compact.

23 (f) "Council review" means the collective review by the council members as
24 described in subs. (4) to (4z).

1 (fm) "County" means the largest territorial division for local government in a
2 state. The county boundaries shall be defined as those boundaries that exist as of
3 December 13, 2005.

4 (g) "Cumulative impacts" means the impact on the basin ecosystem that results
5 from incremental effects of all aspects of a withdrawal, diversion, or consumptive use
6 in addition to other past, present, and reasonably foreseeable future withdrawals,
7 diversions, and consumptive uses regardless of who undertakes the other
8 withdrawals, diversions, and consumptive uses. Cumulative impacts can result
9 from individually minor but collectively significant withdrawals, diversions, and
10 consumptive uses taking place over a period of time.

11 (gm) "Decision-making standard" means the decision-making standard
12 established by sub. (4r) for proposals subject to management and regulation in sub.
13 (4p).

14 (h) "Diversion" means a transfer of water from the basin into another
15 watershed, or from the watershed of one of the Great Lakes into that of another by
16 any means of transfer, including but not limited to a pipeline, canal, tunnel,
17 aqueduct, channel, modification of the direction of a water course, a tanker ship,
18 tanker truck, or rail tanker but does not apply to water that is used in the basin or
19 a Great Lake watershed to manufacture or produce a product that is then transferred
20 out of the basin or watershed. "Divert" has a corresponding meaning.

21 (i) "Environmentally sound and economically feasible water conservation
22 measures" mean those measures, methods, technologies, or practices for efficient
23 water use and for reduction of water loss and waste or for reducing a withdrawal,
24 consumptive use, or diversion that are environmentally sound, reflect best practices
25 applicable to the water use sector, are technically feasible and available, are

1 economically feasible and cost-effective based on an analysis that considers direct
2 and avoided economic and environmental costs, and consider the particular facilities
3 and processes involved, taking into account the environmental impact, age of
4 equipment and facilities involved, the processes employed, energy impacts, and
5 other appropriate factors.

6 (im) "Exception" means a transfer of water that is excepted under sub. (4n)
7 from the prohibition against diversions in sub. (4m).

8 (j) "Exception standard" means the standard for exceptions established in sub.
9 (4n) (d).

10 (jm) "Intrabasin transfer" means the transfer of water from the watershed of
11 one of the Great Lakes into the watershed of another Great Lake.

12 (k) "Measures" means any legislation, law, regulation, directive, requirement,
13 guideline, program, policy, administrative practice, or other procedure.

14 (km) "New or increased diversion" means a new diversion, an increase in an
15 existing diversion, or the alteration of an existing withdrawal so that it becomes a
16 diversion.

17 (L) "New or increased withdrawal or consumptive use" means a new
18 withdrawal or consumptive use or an increase in an existing withdrawal or
19 consumptive use.

20 (Lm) "Originating party" means the party within whose jurisdiction an
21 application or registration is made or required.

22 (n) "Party" means a state that is a party to this compact.

23 (nm) "Person" means a human being or a legal person, including a government
24 or a nongovernmental organization, including any scientific, professional, business,

1 nonprofit, or public interest organization or association that is neither affiliated
2 with, nor under the direction of a government.

3 (o) 1. "Product" means something produced in the basin by human or
4 mechanical effort or through agricultural processes and used in manufacturing,
5 commercial, or other processes or intended for intermediate or end use consumers.

6 2. Water used as part of the packaging of a product shall be considered to be
7 part of the product.

8 3. Other than water used as part of the packaging of a product, water that is
9 used primarily to transport materials in or out of the basin is not a product or part
10 of a product.

11 4. Except as provided in subd. 2., water that is transferred as part of a public
12 or private supply is not a product or part of a product.

13 5. Water in its natural state such as in lakes, rivers, reservoirs, aquifers, or
14 water basins is not a product.

15 (om) "Proposal" means a withdrawal, diversion, or consumptive use of water
16 that is subject to this compact.

17 (p) "Province" means Ontario or Quebec.

18 (pm) "Public water supply purposes" means water distributed to the public
19 through a physically connected system of treatment, storage, and distribution
20 facilities serving a group of largely residential customers that may also serve
21 industrial, commercial, and other institutional operators. Water withdrawn directly
22 from the basin and not through such a system shall not be considered to be used for
23 public water supply purposes.

24 (q) "Regional body" means the members of the council and the premiers of
25 Ontario and Quebec or their designee as established by the agreement.

1 (qm) "Regional review" means the collective review by the regional body as
2 described in sub. (4h).

3 (r) "Source watershed" means the watershed from which a withdrawal
4 originates. If water is withdrawn directly from a Great Lake or from the St.
5 Lawrence River, then the source watershed shall be considered to be the watershed
6 of that Great Lake or the watershed of the St. Lawrence River, respectively. If water
7 is withdrawn from the watershed of a stream that is a direct tributary to a Great
8 Lake or a direct tributary to the St. Lawrence River, then the source watershed shall
9 be considered to be the watershed of that Great Lake or the watershed of the St.
10 Lawrence River, respectively, with a preference to the direct tributary stream
11 watershed from which it was withdrawn.

12 (rm) "Standard of review and decision" means the exception standard,
13 decision-making standard, and reviews as outlined in subs. (4) to (4z).

14 (s) "State" means one of the states of Illinois, Indiana, Michigan, Minnesota,
15 New York, Ohio, or Wisconsin or the Commonwealth of Pennsylvania.

16 (t) "Straddling community" means any incorporated city, town, or the
17 equivalent thereof, wholly within any county that lies partly or completely within the
18 basin, whose corporate boundary existing as of the effective date of this compact is
19 partly within the basin or partly within 2 Great Lakes watersheds.

20 (u) "Technical review" means a detailed review conducted to determine
21 whether or not a proposal that requires regional review under this compact meets
22 the standard of review and decision following procedures and guidelines as set out
23 in this compact.

24 (v) "Water" means groundwater or surface water contained within the basin.

1 (w) "Water dependent natural resources" means the interacting components of
2 land, water, and living organisms affected by the waters of the basin.

3 (x) "Waters of the basin" or "basin water" means the Great Lakes and all
4 streams, rivers, lakes, connecting channels, and other bodies of water, including
5 tributary groundwater, within the basin.

6 (y) "Withdrawal" means the taking of water from surface water or
7 groundwater. "Withdraw" has a corresponding meaning.

8 **(1m) FINDINGS AND PURPOSES.** The legislative bodies of the respective parties
9 hereby find and declare:

10 (a) Findings:

11 1. The waters of the basin are precious public natural resources shared and
12 held in trust by the states;

13 2. The waters of the basin are interconnected and part of a single hydrologic
14 system;

15 3. The waters of the basin can concurrently serve multiple uses. Such multiple
16 uses include municipal, public, industrial, commercial, agriculture, mining,
17 navigation, energy development and production, recreation, the subsistence,
18 economic, and cultural activities of native peoples, water quality maintenance, and
19 the maintenance of fish and wildlife habitat and a balanced ecosystem. And, other
20 purposes are encouraged, recognizing that such uses are interdependent and must
21 be balanced;

22 4. Future diversions and consumptive uses of basin water resources have the
23 potential to significantly impact the environment, economy, and welfare of the Great
24 Lakes—St. Lawrence River region;

1 5. Continued sustainable, accessible, and adequate water supplies for the
2 people and economy of the basin are of vital importance; and

3 6. The parties have a shared duty to protect, conserve, restore, improve, and
4 manage the renewable but finite waters of the basin for the use, benefit, and
5 enjoyment of all their citizens, including generations yet to come. The most effective
6 means of protecting, conserving, restoring, improving, and managing the basin
7 waters is through the joint pursuit of unified and cooperative principles, policies, and
8 programs mutually agreed upon, enacted, and adhered to by all parties.

9 (b) Purposes:

10 1. To act together to protect, conserve, restore, improve, and effectively manage
11 the waters and water dependent natural resources of the basin under appropriate
12 arrangements for intergovernmental cooperation and consultation because current
13 lack of full scientific certainty should not be used as a reason for postponing
14 measures to protect the basin ecosystem;

15 2. To remove causes of present and future controversies;

16 3. To provide for cooperative planning and action by the parties with respect
17 to such water resources;

18 4. To facilitate consistent approaches to water management across the basin
19 while retaining state management authority over water management decisions
20 within the basin;

21 5. To facilitate the exchange of data, strengthen the scientific information base
22 upon which decisions are made, and engage in consultation on the potential effects
23 of proposed withdrawals and losses on the waters and water dependent natural
24 resources of the basin;

1 6. To prevent significant adverse impacts of withdrawals and losses on the
2 basin's ecosystems and watersheds;

3 7. To promote interstate and state-provincial comity; and

4 8. To promote an adaptive management approach to the conservation and
5 management of basin water resources that recognizes, considers, and provides
6 adjustments for the uncertainties in, and evolution of, scientific knowledge
7 concerning the basin's waters and water dependent natural resources.

8 **(1s) SCIENCE.** (a) The parties commit to provide leadership for the development
9 of a collaborative strategy with other regional partners to strengthen the scientific
10 basis for sound water management decision making under this compact.

11 (b) The strategy shall guide the collection and application of scientific
12 information to support:

13 1. An improved understanding of the individual and cumulative impacts of
14 withdrawals from various locations and water sources on the basin ecosystem and
15 to develop a mechanism by which impacts of withdrawals may be assessed;

16 2. The periodic assessment of cumulative impacts of withdrawals, diversions,
17 and consumptive uses on a Great Lake and St. Lawrence River watershed basis;

18 3. Improved scientific understanding of the waters of the basin;

19 4. Improved understanding of the role of groundwater in basin water resources
20 management; and

21 5. The development, transfer, and application of science and research related
22 to water conservation and water use efficiency.

23 **(2) ORGANIZATION.** (a) *Council created.* The Great Lakes—St. Lawrence River
24 Basin Water Resources Council is hereby created as a body politic and corporate,

1 with succession for the duration of this compact, as an agency and instrumentality
2 of the governments of the respective parties.

3 (b) *Council membership.* The council shall consist of the governors of the
4 parties, ex officio.

5 (c) *Alternates.* Each member of the council shall appoint at least one alternate
6 who may act in his or her place and stead, with authority to attend all meetings of
7 the council and with power to vote in the absence of the member. Unless otherwise
8 provided by law of the party for which he or she is appointed, each alternate shall
9 serve during the term of the member appointing him or her, subject to removal at the
10 pleasure of the member. In the event of a vacancy in the office of alternate, it shall
11 be filled in the same manner as an original appointment for the unexpired term only.

12 (d) *Voting.* 1. Each member is entitled to one vote on all matters that may come
13 before the council.

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

15 3. The council shall annually adopt a budget for each fiscal year and the amount
16 required to balance the budget shall be apportioned equitably among the parties by
17 unanimous vote of the council. The appropriation of such amounts shall be subject
18 to such review and approval as may be required by the budgetary processes of the
19 respective parties.

20 4. The participation of council members from a majority of the parties shall
21 constitute a quorum for the transaction of business at any meeting of the council.

22 (e) *Organization and procedure.* The council shall provide for its own
23 organization and procedure, and may adopt rules and regulations governing its
24 meetings and transactions, as well as the procedures and timeline for submission,
25 review, and consideration of proposals that come before the council for its review and

1 action. The council shall organize, annually, by the election of a chairperson and vice
2 chairperson from among its members. Each member may appoint an advisor, who
3 may attend all meetings of the council and its committees, but shall not have voting
4 power. The council may employ or appoint professional and administrative
5 personnel, including an executive director, as it may deem advisable, to carry out the
6 purposes of this compact.

7 (f) *Use of existing offices and agencies.* It is the policy of the parties to preserve
8 and utilize the functions, powers, and duties of existing offices and agencies of
9 government to the extent consistent with this compact. Further, the council shall
10 promote and aid the coordination of the activities and programs of the parties
11 concerned with water resources management in the basin. To this end, but without
12 limitation, the council may:

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

15 2. Employ any other agency or instrumentality of any of the parties for any
16 purpose; and

17 3. Develop and adopt plans consistent with the water resources plans of the
18 parties.

19 (g) *Jurisdiction.* The council shall have, exercise, and discharge its functions,
20 powers, and duties within the limits of the basin. Outside the basin, it may act in
21 its discretion, but only to the extent such action may be necessary or convenient to
22 effectuate or implement its powers or responsibilities within the basin and subject
23 to the consent of the jurisdiction wherein it proposes to act.

24 (h) *Status, immunities, and privileges.* 1. The council, its members and
25 personnel in their official capacity and when engaged directly in the affairs of the

1 council, its property, and its assets, wherever located and by whomsoever held, shall
2 enjoy the same immunity from suit and every form of judicial process as is enjoyed
3 by the parties, except to the extent that the council may expressly waive its immunity
4 for the purposes of any proceedings or by the terms of any contract.

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

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

15 (i) *Advisory committees.* The council may constitute and empower advisory
16 committees, which may be comprised of representatives of the public and of federal,
17 state, tribal, county, and local governments, water resources agencies, water-using
18 industries and sectors, water-interest groups, and academic experts in related
19 fields.

20 (3) GENERAL POWERS AND DUTIES. (a) *General.* 1. The waters and water
21 dependent natural resources of the basin are subject to the sovereign right and
22 responsibilities of the parties, and it is the purpose of this compact to provide for joint
23 exercise of such powers of sovereignty by the council in the common interests of the
24 people of the region, in the manner and to the extent provided in this compact. The
25 council and the parties shall use the standard of review and decision and procedures

1 contained in or adopted pursuant to this compact as the means to exercise their
2 authority under this compact.

3 2. The council may revise the standard of review and decision, after
4 consultation with the provinces and upon unanimous vote of all council members, by
5 regulation duly adopted in accordance with par. (c) and in accordance with each
6 party's respective statutory authorities and applicable procedures.

7 3. The council shall identify priorities and develop plans and policies relating
8 to basin water resources. It shall adopt and promote uniform and coordinated
9 policies for water resources conservation and management in the basin.

10 (b) *Council powers.* The council may plan; conduct research and collect,
11 compile, analyze, interpret, report, and disseminate data on water resources and
12 uses; forecast water levels; conduct investigations; institute court actions; design,
13 acquire, construct, reconstruct, own, operate, maintain, control, sell, and convey real
14 and personal property and any interest therein as it may deem necessary, useful, or
15 convenient to carry out the purposes of this compact; make contracts; receive and
16 accept such payments, appropriations, grants, gifts, loans, advances, and other
17 funds, properties, and services as may be transferred or made available to it by any
18 party or by any other public or private agency, corporation, or individual; and
19 exercise such other and different powers as may be delegated to it by this compact
20 or otherwise pursuant to law, and have and exercise all powers necessary or
21 convenient to carry out its express powers or that may be reasonably implied
22 therefrom.

23 (c) *Rules and regulations.* 1. The council may promulgate and enforce such
24 rules and regulations as may be necessary for the implementation and enforcement
25 of this compact. The council may adopt by regulation, after public notice and public

1 hearing, reasonable application fees with respect to those proposals for exceptions
2 that are subject to council review under sub. (4n). Any rule or regulation of the
3 council, other than one that deals solely with the internal management of the council
4 or its property, shall be adopted only after public notice and hearing.

5 2. Each party, in accordance with its respective statutory authorities and
6 applicable procedures, may adopt and enforce rules and regulations to implement
7 and enforce this compact and the programs adopted by such party to carry out the
8 management programs contemplated by this compact.

9 (d) *Program review and findings.* 1. Each party shall submit a report to the
10 council and the regional body detailing its water management and conservation and
11 efficiency programs that implement this compact. The report shall set out the
12 manner in which water withdrawals are managed by sector, water source, quantity,
13 or any other means, and how the provisions of the standard of review and decision
14 and conservation and efficiency programs are implemented. The first report shall
15 be provided by each party one year from the effective date of this compact and
16 thereafter every 5 years.

17 2. The council, in cooperation with the provinces, shall review its water
18 management and conservation and efficiency programs and those of the parties that
19 are established in this compact and make findings on whether the water
20 management program provisions in this compact are being met, and if not,
21 recommend options to assist the parties in meeting the provisions of this compact.

22 Such review shall take place:

- 23 a. Thirty days after the first report is submitted by all parties; and
24 b. Every 5 years after the effective date of this compact; and
25 c. At any other time at the request of one of the parties.

1 3. As one of its duties and responsibilities, the council may recommend a range
2 of approaches to the parties with respect to the development, enhancement, and
3 application of water management and conservation and efficiency programs to
4 implement the standard of review and decision reflecting improved scientific
5 understanding of the waters of the basin, including groundwater, and the impacts
6 of withdrawals on the basin ecosystem.

7 **(4) WATER MANAGEMENT AND REGULATION; WATER RESOURCES INVENTORY,**
8 **REGISTRATION, AND REPORTING.** (a) Within 5 years of the effective date of this compact,
9 each party shall develop and maintain a water resources inventory for the collection,
10 interpretation, storage, retrieval, exchange, and dissemination of information
11 concerning the water resources of the party, including but not limited to information
12 on the location, type, quantity, and use of those resources and the location, type, and
13 quantity of withdrawals, diversions, and consumptive uses. To the extent feasible,
14 the water resources inventory shall be developed in cooperation with local, state,
15 federal, tribal, and other private agencies and entities, as well as the council. Each
16 party's agencies shall cooperate with that party in the development and maintenance
17 of the inventory.

18 (b) The council shall assist each party to develop a common base of data
19 regarding the management of the water resources of the basin and to establish
20 systematic arrangements for the exchange of those data with other states and
21 provinces.

22 (c) To develop and maintain a compatible base of water use information, within
23 5 years of the effective date of this compact any person who withdraws water in an
24 amount of 100,000 gallons per day or greater average in any 30-day period, including
25 consumptive uses, from all sources, or diverts water of any amount, shall register the

1 withdrawal or diversion by a date set by the council unless the person has previously
2 registered in accordance with an existing state program. The person shall register
3 the withdrawal or diversion with the originating party using a form prescribed by
4 the originating party that shall include, at a minimum and without limitation: the
5 name and address of the registrant and date of registration; the locations and sources
6 of the withdrawal or diversion; the capacity of the withdrawal or diversion per day
7 and the amount withdrawn or diverted from each source; the uses made of the water;
8 places of use and places of discharge; and such other information as the originating
9 party may require. All registrations shall include an estimate of the volume of the
10 withdrawal or diversion in terms of gallons per day average in any 30-day period.

11 (d) All registrants shall annually report the monthly volumes of the
12 withdrawal, consumptive use, and diversion in gallons to the originating party and
13 any other information requested by the originating party.

14 (e) Each party shall annually report the information gathered pursuant to this
15 subsection to a Great Lakes—St. Lawrence River water use data base repository and
16 aggregated information shall be made publicly available, consistent with the
17 confidentiality requirements in sub. (8) (c).

18 (f) Information gathered by the parties pursuant to this subsection shall be
19 used to improve the sources and applications of scientific information regarding the
20 waters of the basin and the impacts of the withdrawals and diversions from various
21 locations and water sources on the basin ecosystem and to better understand the role
22 of groundwater in the basin. The council and the parties shall coordinate the
23 collection and application of scientific information to further develop a mechanism
24 by which individual and cumulative impacts of withdrawals, consumptive uses, and
25 diversions shall be assessed.

1 **(4b) WATER MANAGEMENT AND REGULATION; WATER CONSERVATION AND EFFICIENCY**
2 PROGRAMS. (a) The council commits to identify, in cooperation with the provinces,
3 basin-wide water conservation and efficiency objectives to assist the parties in
4 developing their water conservation and efficiency programs. These objectives are
5 based on the goals of:

- 6 1. Ensuring improvement of the waters and water dependent natural
7 resources;
- 8 2. Protecting and restoring the hydrologic and ecosystem integrity of the basin;
- 9 3. Retaining the quantity of surface water and groundwater in the basin;
- 10 4. Ensuring sustainable use of waters of the basin; and
- 11 5. Promoting the efficiency of use and reducing losses and waste of water.

12 (b) Within 2 years of the effective date of this compact, each party shall develop
13 its own water conservation and efficiency goals and objectives consistent with the
14 basin-wide goals and objectives and shall develop and implement a water
15 conservation and efficiency program, either voluntary or mandatory, within its
16 jurisdiction based on the party's goals and objectives. Each party shall annually
17 assess its programs in meeting the party's goals and objectives, report to the council
18 and the regional body, and make this annual assessment available to the public.

19 (c) Beginning 5 years after the effective date of this compact, and every 5 years
20 thereafter, the council, in cooperation with the provinces, shall review and modify as
21 appropriate the basin-wide objectives, and the parties shall have regard for any such
22 modifications in implementing their programs. This assessment will be based on
23 examining new technologies, new patterns of water use, new resource demands and
24 threats, and cumulative impact assessment under sub. (4z).

1 (d) Within 2 years of the effective date of this compact, the parties commit to
2 promote environmentally sound and economically feasible water conservation
3 measures such as:

- 4 1. Measures that promote efficient use of water;
- 5 2. Identification and sharing of best management practices and state of the art
6 conservation and efficiency technologies;
- 7 3. Application of sound planning principles;
- 8 4. Demand-side and supply-side measures or incentives; and
- 9 5. Development, transfer, and application of science and research.

10 (e) Each party shall implement in accordance with par. (b) a voluntary or
11 mandatory water conservation program for all, including existing, basin water
12 users. Conservation programs need to adjust to new demands and the potential
13 impacts of cumulative effects and climate.

14 **(4d) WATER MANAGEMENT AND REGULATION; PARTY POWERS AND DUTIES.** (a) Each
15 party, within its jurisdiction, shall manage and regulate new or increased
16 withdrawals, consumptive uses, and diversions, including exceptions, in accordance
17 with this compact.

18 (b) Each party shall require an applicant to submit an application in such
19 manner and with such accompanying information as the party shall prescribe.

20 (c) No party may approve a proposal if the party determines that the proposal
21 is inconsistent with this compact or the standard of review and decision or any
22 implementing rules or regulations promulgated thereunder. The party may
23 approve, approve with modifications, or disapprove any proposal depending on the
24 proposal's consistency with this compact and the standard of review and decision.

1 (d) Each party shall monitor the implementation of any approved proposal to
2 ensure consistency with the approval and may take all necessary enforcement
3 actions.

4 (e) No party shall approve a proposal subject to council or regional review, or
5 both, pursuant to this compact unless it shall have been first submitted to and
6 reviewed by either the council or regional body, or both, and approved by the council,
7 as applicable. Sufficient opportunity shall be provided for comment on the proposal's
8 consistency with this compact and the standard of review and decision. All such
9 comments shall become part of the party's formal record of decision, and the party
10 shall take into consideration any such comments received.

11 **(4f) WATER MANAGEMENT AND REGULATION; REQUIREMENT FOR ORIGINATING PARTY**
12 **APPROVAL.** No proposal subject to management and regulation under this compact
13 shall hereafter be undertaken by any person unless it shall have been approved by
14 the originating party.

15 **(4h) WATER MANAGEMENT AND REGULATION; REGIONAL REVIEW.** (a) *General.* 1. It
16 is the intention of the parties to participate in regional review of proposals with the
17 provinces, as described in this compact and the agreement.

18 2. Unless the applicant or the originating party otherwise requests, it shall be
19 the goal of the regional body to conclude its review no later than 90 days after notice
20 under par. (b) of such proposal is received from the originating party.

21 3. Proposals for exceptions subject to regional review shall be submitted by the
22 originating party to the regional body for regional review and, where applicable, to
23 the council for concurrent review.

24 4. The parties agree that the protection of the integrity of the Great Lakes—St.
25 Lawrence River Basin ecosystem shall be the overarching principle for reviewing

1 proposals subject to regional review, recognizing uncertainties with respect to
2 demands that may be placed on basin water, including groundwater, levels and flows
3 of the Great Lakes and the St. Lawrence River, future changes in environmental
4 conditions, the reliability of existing data, and the extent to which diversions may
5 harm the integrity of the basin ecosystem.

6 5. The originating party shall have lead responsibility for coordinating
7 information for resolution of issues related to evaluation of a proposal and shall
8 consult with the applicant throughout the regional review process.

9 6. A majority of the members of the regional body may request regional review
10 of a regionally significant or potentially precedent setting proposal. Such regional
11 review must be conducted, to the extent possible, within the time frames set forth in
12 this subsection. Any such regional review shall be undertaken only after consulting
13 the applicant.

14 (b) *Notice from originating party to the regional body.* 1. The originating party
15 shall determine if a proposal is subject to regional review. If so, the originating party
16 shall provide timely notice to the regional body and the public.

17 2. Such notice shall not be given unless and until all information, documents,
18 and the originating party's technical review needed to evaluate whether the proposal
19 meets the standard of review and decision have been provided.

20 3. An originating party may:

21 a. Provide notice to the regional body of an application, even if notification is
22 not required; or

23 b. Request regional review of an application, even if regional review is not
24 required. Any such regional review shall be undertaken only after consulting the
25 applicant.

1 4. An originating party may provide preliminary notice of a potential proposal.

2 (c) *Public participation.* 1. To ensure adequate public participation, the
3 regional body shall adopt procedures for the review of proposals that are subject to
4 regional review in accordance with subs. (4) to (4z).

5 2. The regional body shall provide notice to the public of a proposal undergoing
6 regional review. Such notice shall indicate that the public has an opportunity to
7 comment in writing to the regional body on whether the proposal meets the standard
8 of review and decision.

9 3. The regional body shall hold a public meeting in the state or province of the
10 originating party in order to receive public comment on the issue of whether the
11 proposal under consideration meets the standard of review and decision.

12 4. The regional body shall consider the comments received before issuing a
13 declaration of finding.

14 5. The regional body shall forward the comments it receives to the originating
15 party.

16 (d) *Technical review.* 1. The originating party shall provide the regional body
17 with its technical review of the proposal under consideration.

18 2. The originating party's technical review shall thoroughly analyze the
19 proposal and provide an evaluation of the proposal sufficient for a determination of
20 whether the proposal meets the standard of review and decision.

21 3. Any member of the regional body may conduct the member's own technical
22 review of any proposal subject to regional review.

23 4. At the request of the majority of its members, the regional body shall make
24 such arrangements as it considers appropriate for an independent technical review
25 of a proposal.

1 5. All parties shall exercise their best efforts to ensure that a technical review
2 undertaken under subd. 3. or 4. does not unnecessarily delay the decision by the
3 originating party on the application. Unless the applicant or the originating party
4 otherwise requests, all technical reviews shall be completed no later than 60 days
5 after the date the notice of the proposal was given to the regional body.

6 (e) *Declaration of finding.* 1. The regional body shall meet to consider a
7 proposal. The applicant shall be provided with an opportunity to present the
8 proposal to the regional body at such time.

9 2. The regional body, having considered the notice, the originating party's
10 technical review, any other independent technical review that is made, any
11 comments or objections including the analysis of comments made by the public and
12 first nations and federally recognized tribes, and any other information that is
13 provided under this compact shall issue a declaration of finding that the proposal
14 under consideration:

15 a. Meets the standard of review and decision;

16 b. Does not meet the standard of review and decision; or

17 c. Would meet the standard of review and decision if certain conditions were
18 met.

19 3. An originating party may decline to participate in a declaration of finding
20 made by the regional body.

21 4. The parties recognize and affirm that it is preferable for all members of the
22 regional body to agree whether the proposal meets the standard of review and
23 decision.

24 5. If the members of the regional body who participate in the declaration of
25 finding all agree, they shall issue a written declaration of finding with consensus.

1 6. In the event that the members cannot agree, the regional body shall make
2 every reasonable effort to achieve consensus within 25 days.

3 7. Should consensus not be achieved, the regional body may issue a declaration
4 of finding that presents different points of view and indicates each party's
5 conclusions.

6 8. The regional body shall release the declarations of finding to the public.

7 9. The originating party and the council shall consider the declaration of
8 finding before making a decision on the proposal.

9 **(4j) WATER MANAGEMENT AND REGULATION; PROPOSALS SUBJECT TO PRIOR NOTICE.**

10 (a) Beginning no later than 5 years after the effective date of this compact, the
11 originating party shall provide all parties and the provinces with detailed and timely
12 notice and an opportunity to comment within 90 days on any proposal for a new or
13 increased consumptive use of 5,000,000 gallons per day or greater average in any
14 90-day period. Comments shall address whether or not the proposal is consistent
15 with the standard of review and decision. The originating party shall provide a
16 response to any such comment received from another party.

17 (b) A party may provide notice, an opportunity to comment, and a response to
18 comments even if this is not required under par. (a). Any provision of such notice and
19 opportunity to comment shall be undertaken only after consulting the applicant.

20 **(4L) WATER MANAGEMENT AND REGULATION; COUNCIL ACTIONS.** (a) Proposals for
21 exceptions subject to council review shall be submitted by the originating party to
22 the council for council review, and where applicable, to the regional body for
23 concurrent review.

24 (b) The council shall review and take action on proposals in accordance with
25 this compact and the standard of review and decision. The council shall not take

1 action on a proposal subject to regional review pursuant to this compact unless the
2 proposal shall have been first submitted to and reviewed by the regional body. The
3 council shall consider any findings resulting from such review.

4 (4m) WATER MANAGEMENT AND REGULATION; PROHIBITION OF NEW OR INCREASED
5 DIVERSIONS. All new or increased diversions are prohibited, except as provided for in
6 sub. (4n).

7 (4n) WATER MANAGEMENT AND REGULATION; EXCEPTIONS TO THE PROHIBITION OF
8 DIVERSIONS. (a) *Straddling communities*. A proposal to transfer water to an area
9 within a straddling community but outside the basin or outside the source Great
10 Lake watershed shall be excepted from the prohibition against diversions and be
11 managed and regulated by the originating party provided that, regardless of the
12 volume of water transferred, all of the water so transferred shall be used solely for
13 public water supply purposes within the straddling community, and:

14 1. All water withdrawn from the basin shall be returned, either naturally or
15 after use, to the source watershed less an allowance for consumptive use. No surface
16 water or groundwater from outside the basin may be used to satisfy any portion of
17 this criterion except if it:

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

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

22 c. Maximizes the portion of water returned to the source watershed as basin
23 water and minimizes the surface water or groundwater from outside the basin;

1 2. If the proposal results from a new or increased withdrawal of 100,000 gallons
2 per day or greater average over any 90-day period, the proposal shall also meet the
3 exception standard; and

4 3. If the proposal results in a new or increased consumptive use of 5,000,000
5 gallons per day or greater average over any 90-day period, the proposal shall also
6 undergo regional review.

7 (b) *Intrabasin transfer*. A proposal for an intrabasin transfer that would be
8 considered a diversion under this compact, and not already excepted pursuant to par.

9 (a), shall be excepted from the prohibition against diversions, provided that:

10 1. If the proposal results from a new or increased withdrawal of less than
11 100,000 gallons per day average over any 90-day period, the proposal shall be subject
12 to management and regulation at the discretion of the originating party.

13 2. If the proposal results from a new or increased withdrawal of 100,000 gallons
14 per day or greater average over any 90-day period and if the consumptive use
15 resulting from the withdrawal is less than 5,000,000 gallons per day average over
16 any 90-day period:

17 a. The proposal shall meet the exception standard and be subject to
18 management and regulation by the originating party, except that the water may be
19 returned to another Great Lake watershed rather than the source watershed;

20 b. The applicant shall demonstrate that there is no feasible, cost-effective, and
21 environmentally sound water supply alternative within the Great Lake watershed
22 to which the water will be transferred, including conservation of existing water
23 supplies; and

24 c. The originating party shall provide notice to the other parties prior to making
25 any decision with respect to the proposal.

1 3. If the proposal results in a new or increased consumptive use of 5,000,000
2 gallons per day or greater average over any 90-day period:

3 a. The proposal shall be subject to management and regulation by the
4 originating party and shall meet the exception standard, ensuring that water
5 withdrawn shall be returned to the source watershed;

6 b. The applicant shall demonstrate that there is no feasible, cost-effective, and
7 environmentally sound water supply alternative within the Great Lake watershed
8 to which the water will be transferred, including conservation of existing water
9 supplies;

10 c. The proposal undergoes regional review; and

11 d. The proposal is approved by the council. Council approval shall be given
12 unless one or more council members vote to disapprove.

13 (c) *Straddling counties.* 1. A proposal to transfer water to a community within
14 a straddling county that would be considered a diversion under this compact shall
15 be excepted from the prohibition against diversions, provided that it satisfies all of
16 the following conditions:

17 a. The water shall be used solely for the public water supply purposes of the
18 community within a straddling county that is without adequate supplies of potable
19 water;

20 b. The proposal meets the exception standard, maximizing the portion of water
21 returned to the source watershed as basin water and minimizing the surface water
22 or groundwater from outside the basin;

23 c. The proposal shall be subject to management and regulation by the
24 originating party, regardless of its size;

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

3 e. Caution shall be used in determining whether or not the proposal meets the
4 conditions for this exception. This exception should not be authorized unless it can
5 be shown that it will not endanger the integrity of the basin ecosystem;

6 f. The proposal undergoes regional review; and

7 g. The proposal is approved by the council. Council approval shall be given
8 unless one or more council members vote to disapprove.

9 2. A proposal must satisfy all of the conditions listed above. Further,
10 substantive consideration will also be given to whether or not the proposal can
11 provide sufficient scientifically based evidence that the existing water supply is
12 derived from groundwater that is hydrologically interconnected to waters of the
13 basin.

14 (d) *Exception standard.* Proposals subject to management and regulation in
15 this subsection shall be declared to meet this exception standard and may be
16 approved as appropriate only when the following criteria are met:

17 1. The need for all or part of the proposed exception cannot be reasonably
18 avoided through the efficient use and conservation of existing water supplies;

19 2. The exception will be limited to quantities that are considered reasonable
20 for the purposes for which it is proposed;

21 3. All water withdrawn shall be returned, either naturally or after use, to the
22 source watershed less an allowance for consumptive use. No surface water or
23 groundwater from outside the basin may be used to satisfy any portion of this
24 criterion except if it:

1 a. Is part of a water supply or wastewater treatment system that combines
2 water from inside and outside of the basin; and

3 b. Is treated to meet applicable water quality discharge standards and to
4 prevent the introduction of invasive species into the basin;

5 4. The exception will be implemented so as to ensure that it will result in no
6 significant individual or cumulative adverse impacts to the quantity or quality of the
7 waters and water dependent natural resources of the basin with consideration given
8 to the potential cumulative impacts of any precedent-setting consequences
9 associated with the proposal;

10 5. The exception will be implemented so as to incorporate environmentally
11 sound and economically feasible water conservation measures to minimize water
12 withdrawals or consumptive use;

13 6. The exception will be implemented so as to ensure that it is in compliance
14 with all applicable municipal, state, and federal laws as well as regional interstate
15 and international agreements, including the Boundary Waters Treaty of 1909; and

16 7. All other applicable criteria in this subsection have also been met.

17 **(4p) WATER MANAGEMENT AND REGULATION; MANAGEMENT AND REGULATION OF NEW**
18 **OR INCREASED WITHDRAWALS AND CONSUMPTIVE USES.** (a) Within 5 years of the effective
19 date of this compact, each party shall create a program for the management and
20 regulation of new or increased withdrawals and consumptive uses by adopting and
21 implementing measures consistent with the decision-making standard. Each party,
22 through a considered process, shall set and may modify threshold levels for the
23 regulation of new or increased withdrawals in order to assure an effective and
24 efficient water management program that will ensure that uses overall are
25 reasonable, that withdrawals overall will not result in significant impacts to the

1 waters and water dependent natural resources of the basin, determined on the basis
2 of significant impacts to the physical, chemical, and biological integrity of source
3 watersheds, and that all other objectives of the compact are achieved. Each party
4 may determine the scope and thresholds of its program, including which new or
5 increased withdrawals and consumptive uses will be subject to the program.

6 (b) Any party that fails to set threshold levels that comply with par. (a) any time
7 before 10 years after the effective date of this compact shall apply a threshold level
8 for management and regulation of all new or increased withdrawals of 100,000
9 gallons per day or greater average in any 90-day period.

10 (c) The parties intend programs for new or increased withdrawals and
11 consumptive uses to evolve as may be necessary to protect basin waters. Pursuant
12 to sub. (3) (d), the council, in cooperation with the provinces, shall periodically assess
13 the water management programs of the parties. Such assessments may produce
14 recommendations for the strengthening of the programs, including, without
15 limitation, establishing lower thresholds for management and regulation in
16 accordance with the decision-making standard.

17 **(4r) WATER MANAGEMENT AND REGULATION; DECISION-MAKING STANDARD.**
18 Proposals subject to management and regulation in sub. (4p) shall be declared to
19 meet this decision-making standard and may be approved as appropriate only when
20 the following criteria are met:

21 (a) All water withdrawn shall be returned, either naturally or after use, to the
22 source watershed less an allowance for consumptive use;

23 (b) The withdrawal or consumptive use will be implemented so as to ensure
24 that the proposal will result in no significant individual or cumulative adverse

1 impacts to the quantity or quality of the waters and water dependent natural
2 resources and the applicable source watershed;

3 (c) The withdrawal or consumptive use will be implemented so as to incorporate
4 environmentally sound and economically feasible water conservation measures;

5 (d) The withdrawal or consumptive use will be implemented so as to ensure
6 that it is in compliance with all applicable municipal, state, and federal laws as well
7 as regional interstate and international agreements, including the Boundary Waters
8 Treaty of 1909; and

9 (e) The proposed use is reasonable, based upon a consideration of the following
10 factors:

11 1. Whether the proposed withdrawal or consumptive use is planned in a fashion
12 that provides for efficient use of the water and will avoid or minimize the waste of
13 water;

14 2. If the proposal is for an increased withdrawal or consumptive use, whether
15 efficient use is made of existing water supplies;

16 3. The balance between economic development, social development, and
17 environmental protection of the proposed withdrawal and use and other existing or
18 planned withdrawals and water uses sharing the water source;

19 4. The supply potential of the water source, considering quantity, quality, and
20 reliability and safe yield of hydrologically interconnected water sources;

21 5. The probable degree and duration of any adverse impacts caused or expected
22 to be caused by the proposed withdrawal and use, under foreseeable conditions, to
23 other lawful consumptive or nonconsumptive uses of water or to the quantity or
24 quality of the waters and water dependent natural resources of the basin, and the
25 proposed plans and arrangements for avoidance or mitigation of such impacts; and

1 6. If a proposal includes restoration of hydrologic conditions and functions of
2 the source watershed, the party may consider that.

3 **(4t)** WATER MANAGEMENT AND REGULATION; APPLICABILITY. (a) *Minimum*
4 *standard.* This standard of review and decision shall be used as a minimum
5 standard. Parties may impose a more restrictive decision-making standard for
6 withdrawals under their authority. It is also acknowledged that although a proposal
7 meets the standard of review and decision it may not be approved under the laws of
8 the originating party that has implemented more restrictive measures.

9 (b) *Baseline.* 1. To establish a baseline for determining a new or increased
10 diversion, consumptive use, or withdrawal, each party shall develop either or both
11 of the following lists for the party's jurisdiction:

12 a. A list of existing withdrawal approvals as of the effective date of the compact.

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

19 2. For all purposes of this compact, volumes of diversions, consumptive uses,
20 or withdrawals of water set forth in the lists prepared by each party in accordance
21 with this paragraph shall constitute the baseline volume.

22 3. The lists shall be furnished to the regional body and the council within one
23 year of the effective date of this compact.

1 (c) *Timing of additional applications.* Applications for new or increased
2 withdrawals, consumptive uses, or exceptions shall be considered cumulatively
3 within 10 years of any application.

4 (d) *Change of ownership.* Unless a new owner proposes a project that shall
5 result in a proposal for a new or increased diversion or consumptive use subject to
6 regional review or council approval, the change of ownership in and of itself shall not
7 require regional review or council approval.

8 (e) *Groundwater.* The basin surface water divide shall be used for the purpose
9 of managing and regulating new or increased diversions, consumptive uses, or
10 withdrawals of surface water and groundwater.

11 (f) *Withdrawal systems.* The total volume of surface water and groundwater
12 resources that supply a common distribution system shall determine the volume of
13 a withdrawal, consumptive use, or diversion.

14 (g) *Connecting channels.* The watershed of each Great Lake shall include its
15 upstream and downstream connecting channels.

16 (h) *Transmission in water lines.* Transmission of water within a line that
17 extends outside the basin as it conveys water from one point to another within the
18 basin shall not be considered a diversion if none of the water is used outside the basin.

19 (i) *Hydrologic units.* The Lake Michigan and Lake Huron watersheds shall be
20 considered to be a single hydrologic unit and watershed.

21 (j) *Bulk water transfer.* A proposal to withdraw water and to remove it from the
22 basin in any container greater than 5.7 gallons shall be treated under this compact
23 in the same manner as a proposal for a diversion. Each party shall have the
24 discretion, within its jurisdiction, to determine the treatment of proposals to
25 withdraw water and to remove it from the basin in any container of 5.7 gallons or less.