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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS

2007-08

(session year)

Senate

(Assembly, Senate or Joint)

Committee on ... Environment and Natural
Resources (SC-ENR)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... **HR** ... **bills and resolutions** (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Mike Barman (LRB) (August 2012)

June-2014

Senate

Record of Committee Proceedings

Committee on Environment and Natural Resources

Senate Bill 523

Relating to: the Great Lakes-St. Lawrence River Basin Water Resources Compact, withdrawals of water from the Great Lakes Basin, water withdrawal and use, water supply planning, water conservation, granting rule-making authority, and providing a penalty.

By Committee on Environment and Natural Resources.

February 21, 2008 Referred to Committee on Environment and Natural Resources.

February 21, 2008 **PUBLIC HEARING HELD**

Present: (5) Senators Miller, Jauch, Wirch, Kedzie and Schultz.

Absent: (0) None.

Appearances For

- Larry Nelson, Waukesha — Mayor, City of Waukesha
- Ed St. Peter, Kenosha — Kenosha Water Utility
- Matt Frank, Madison — Secretary, WI Dept. of Natural Resources
- Jerome Honore, Kenosha
- Jon Richards, Madison — Rep., WI Legislature
- Don Hollard, Kenosha
- Gustav Hauser, Pleasant Prairie
- George Meyer, Madison — WI Wildlife Federation
- Jennifer Jackson, Kenosha — Kenosha, District 20
- Dan Collins, Mequon
- Peter Holzberger, Glendale
- Gene Ecklow, Elkhart Lake — Sheboygan County Conservation Assn.
- Susan Greenfield, Racine — Root-Pike Watershed Initiative Network
- Wendy McCalvy, Racine — Root-Pike - Village of Caledonia
- John Goodrich, New Berlin
- Donna Goodrich, New Berlin
- Arthur Palleon, Cedarburg — Lake Michigan Interleague Organization - LWV
- Russ Tooley, Cleveland
- Virgil Gentz, Kenosha — Town of Paris
- Jody Habush-Synikin, Milwaukee — Midwest Environmental Advocates
- Laura Feider, Franksville
- Laurie Longtine, Waukesha — Waukesha Co. Environmental Action League
- Lucia Petrie, Shorewood
- Marcia Vlach Colsmith, Caledonia

- Sue Ewens, Shorewood
- Rose Marie Dischler, Racine — Eco Justice Center
- Jean Verber, Racine — Racine Dominicans
- Rob Zerban, Kenosha
- Cheri Briscoe, Milwaukee — Sierra Club
- Ann Brodek, Racine — League of Conservation Voters
- Nancy Pierce, Racine
- Gerry Flakas, Delafield
- Jim Colsmith, Caledonia
- Peter McAvoy, Milwaukee — Sixteenth Street Community Health Center
- Mary Esther Schnaubelt, Kenosha
- Jay Warner, Racine
- John Skalbeck, Pleasant Prairie — UW-Parkside
- Phil Haney, Kenosha
- Melissa Walner, Racine
- Morean MacCaughey, Racine
- Leah Blough, Kenosha — League of Conservation Voters
- Kim Biedermann, Green Bay — League of Conservation Voters
- Lawrence Friertag, Sheboygan — Sheboygan Co. Conservation Assn.
- Angie Anderson, Kenosha
- Larry Zamba, Salem
- Keith Reopelle, Madison — Clean Wisconsin
- Edwin Anderson, Kenosha
- L.D. Rockwell, Elkhorn
- Mark Hasenberg — WI Federation of Great Lakes Fishermen
- Gary Bublitz, Sturtevant
- Donna Peterson, Racine — Chiwaukee Prairie
- Adrienne Roach, Oak Creek — WI League of Conservation Voters
- Dawn Feldman-Brown, Pleasant Prairie
- John Bergie, Racine — Sierra Club

Appearances Against

- Nick George, Madison — Midwest Food Processors Assn.
- Matt Moroney, Madison — Wisconsin Builders Association
- Brad Boycks, Madison — WI Builders Assn.
- Ed Wilusz, Neenah — WI Paper Council

Appearances for Information Only

- Harlan Draeger, Racine
- Sharon Cook, Milwaukee — Alliance for the Great Lakes
- Edward Mueller, South Milwaukee

Registrations For

- Lena Taylor, Madison — Senator, Wisconsin State Legislature
- Rita Plauske, Kenosha
- Robert Carlson, Kenosha

- Robert Carlson, Kenosha
- Jessica Garrels, Madison
- Geoffrey Dowse, Kenosha
- Tim Fulton, Kenosha — Sierra Club
- Molly Flanagan, Ann Arbor — National Wildlife Federation
- James Neuner, Milwaukee
- Stan Rosenstiel, Kenosha
- Marion Pacetti, Pleasant Prairie
- Juliette Dages, Kenosha
- Gregory Kowalski, Franklin
- Delene Hanson, Hales Corners
- Jennifer Yauck, Cudahy
- Amanda Delray, Racine
- Barbara Vass, Kenosha
- Lueder Finken, New Berlin — New Berlin Ecology Assn.
- Mary Hiebl, New Berlin — New Berlin Land Conservancy
- Chuck Haubrich, Burlington — Kenosha/Racine Land Trust
- Roger Chernik, Racine
- Debra Dwyer, Shorewood
- Marjorie Puleen, Cedarburg — League of Women Voters
- Pamela Meyer, Eagle
- Ray Misner, Kenosha — Alderman, City of Kenosha
- Michael Witkiewicz, Racine — Wisconsin Conservation Congress
- Rita Neuner, Milwaukee
- Cornelia Zerban, Kenosha
- Barbara Mayoche, Kenosha
- Doug Vaccarello, Pleasant Prairie

Registrations Against

- Kari Olesen, Racine

Registrations for Information Only

- Todd Aidibble, Kenosha

March 4, 2008

EXECUTIVE SESSION HELD

Present: (5) Senators Miller, Jauch, Wirch, Kedzie and Schultz.

Absent: (0) None.

Moved by Senator Wirch, seconded by Senator Miller that **Senate Amendment 1** be recommended for introduction and adoption.

Ayes: (5) Senators Miller, Jauch, Wirch, Kedzie and Schultz.

Noes: (0) None.

INTRODUCTION AND ADOPTION OF SENATE AMENDMENT 1
RECOMMENDED, Ayes 5, Noes 0

Moved by Senator Jauch, seconded by Senator Wirch that **Senate Amendment 2** be recommended for introduction and adoption.

Ayes: (5) Senators Miller, Jauch, Wirch, Kedzie and Schultz.
Noes: (0) None.

INTRODUCTION AND ADOPTION OF SENATE AMENDMENT 2
RECOMMENDED, Ayes 5, Noes 0

Moved by Senator Wirch, seconded by Senator Jauch that **Senate Amendment 3** be recommended for introduction and adoption.

Ayes: (5) Senators Miller, Jauch, Wirch, Kedzie and Schultz.
Noes: (0) None.

INTRODUCTION AND ADOPTION OF SENATE AMENDMENT 3
RECOMMENDED, Ayes 5, Noes 0

Moved by Senator Wirch, seconded by Senator Jauch that **Senate Amendment 4** be recommended for introduction and adoption.

Ayes: (5) Senators Miller, Jauch, Wirch, Kedzie and Schultz.
Noes: (0) None.

INTRODUCTION AND ADOPTION OF SENATE AMENDMENT 4
RECOMMENDED, Ayes 5, Noes 0

Moved by Senator Jauch, seconded by Senator Wirch that **Engrossment of Senate Amendments 1, 2, 3, 4 into Senate Substitute Amendment 1** be recommended for Engrossment of Senate Amendments 1, 2, 3, 4 into Senate Substitute Amendment 1.

Ayes: (5) Senators Miller, Jauch, Wirch, Kedzie and Schultz.
Noes: (0) None.

ENGROSSMENT OF SENATE AMENDMENTS 1, 2, 3, 4 INTO SENATE
SUBSTITUTE AMENDMENT 1 RECOMMENDED, Ayes 5, Noes 0

Moved by Senator Jauch, seconded by Senator Wirch that **Senate Substitute Amendment 1** be recommended for introduction and adoption.

Ayes: (5) Senators Miller, Jauch, Wirch, Kedzie and Schultz.
Noes: (0) None.

INTRODUCTION AND ADOPTION OF SENATE SUBSTITUTE AMENDMENT
1 RECOMMENDED, Ayes 5, Noes 0

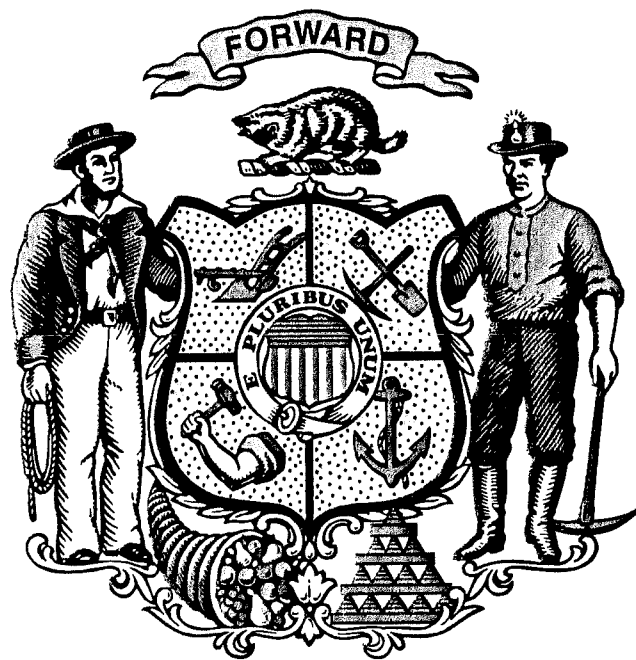
Moved by Senator Wirch, seconded by Senator Jauch that **Senate Bill 523** be recommended for passage as amended.

Ayes: (3) Senators Miller, Jauch and Wirch.

Noes: (2) Senators Kedzie and Schultz.

PASSAGE AS AMENDED RECOMMENDED, Ayes 3, Noes 2

Elizabeth Bier
Committee Clerk





SB 523
folder

WISCONSIN LEGISLATIVE COUNCIL

*Terry C. Anderson, Director
Laura D. Rose, Deputy Director*

TO: REPRESENTATIVE JON RICHARDS

FROM: Rachel Letzing, Senior Staff Attorney

RE: Wisconsin's Public Trust Doctrine and the Great Lakes-St. Lawrence River Basin Water Resources Compact

DATE: February 1, 2008

The Great Lakes-St. Lawrence River Basin Water Resources Compact ("the compact") includes a section entitled "Findings and Purposes." By adopting this section, the legislative bodies of the respective states that are party to the compact find and declare that, among other findings, "the waters of the basin are precious public natural resources shared and held in trust by the states."

You have asked whether this language in the compact might have the effect of expanding the public trust in navigable waters created in the Wisconsin Constitution, article IX, section 1. While the scope of the public trust doctrine has been expanded by Wisconsin case law over time, there are no reported cases which extend the public trust in navigable waters to include groundwater or describe the public trust doctrine as including groundwater.

EXPANSION OF PUBLIC TRUST

It appears that the compact language is unlikely to support the judicial expansion of the scope of the public trust doctrine. The "trust" described in the compact is contained in the "Findings and Purposes" section of the compact, which lists various declaratory and policy statements and purposes of the compact. According to principles of statutory interpretation, the declaration of policy is not a part of the substantive portion of a statute. [6 Norman J. Singer, *Statutes and Statutory Construction*, s. 20:14 (6th ed. 2000).] In addition, the "findings" listed in the compact are expressed as rhetorical findings of fact and statements recognizing the importance of the shared responsibility of the party states to protect the waters of the basin. However, the compact language does not expressly refer to a trust that currently exists in the laws of the party states. Furthermore, if the drafters of the compact intended to expand the scope of any existing trust or create a new trust, standard drafting practice, as well as simple clarity, would dictate that it would be expressly stated in the substantive portions of the compact.

The findings in the compact recognize that the waters of the basin are "shared and held in trust by the states." A plain reading of this provision is that this trust only applies to the "waters of the basin," defined in the compact as "the Great Lakes and all streams, rivers, lakes, connecting channels, and other bodies of water, including tributary groundwater, within the basin." However, the public trust doctrine in the Wisconsin constitution applies to navigable waters in the entire State of Wisconsin, not only to the Great Lakes basin. Furthermore, the compact provides that the waters of the basin are held in trust by all of the party states to the compact, but the Wisconsin public trust doctrine only applies in Wisconsin.

CREATION OF A TRUST

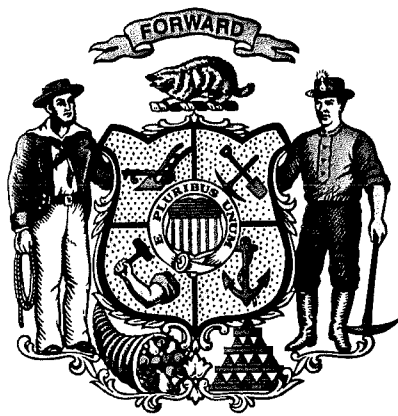
An issue related to your question is whether the language "the waters of the basin are precious public natural resources shared and held in trust by the states," by using the word "trust," creates a trust regarding the waters of the Great Lakes basin that applies in Wisconsin. This question is necessarily a prediction of how a court might rule in a lawsuit in which the "trust" in the compact's findings is an issue in the lawsuit. Courts can be unpredictable, and the results of a lawsuit can be much different than anticipated.

The state is authorized to use its police powers to protect public rights in navigable waters. *Wisconsin Power & Light Co. v. Public Service Commission*, 5 Wis. 2d 167 (1958). This exercise of police power must have a reasonable basis. While this could be called a trust, courts in subsequent cases have not considered this to be a new trust that rises to the level of the public trust in navigable waters.

In *Wisconsin Environmental Decade v. Public Service Commission of Wisconsin*, 69 Wis. 2d 1, (1975), the Wisconsin Supreme Court declined to hold that the statement in the Wisconsin Environmental Policy Act (WEPA) authorizing the state to "fulfill the responsibilities of each generation as trustee of the environment for succeeding generations" established a public trust comparable to the public trust in navigable waters or that the language in WEPA establishes a new public trust in the entire environment. The court, however, held that WEPA recognizes an interest sufficient to give a person standing to question compliance with the law's conditions where a petitioner has alleged that an administrative agency's action will harm the environment in the area where the person lives. *Id.*, at 19.

If you have any questions, please contact Mark C. Patrosky at the Legislative Council staff offices.

REL:wu





CITY OF KENOSHA
John Antaramian, Mayor



"Providing and Protecting Kenosha's Greatest Natural Resource"

KENOSHA WATER UTILITY
Edward St. Peter, General Manager

February 15, 2008

Senator Mark Miller
Committee on Environment and Natural Resources, Chair
Room 409 South
State Capitol
P.O. Box 7882
Madison, WI 53707-7882

SB 523

Subject: Support for LRB-3207/P7 "Great Lakes-St. Lawrence River Basin Water Resources Compact"

Dear Senator Miller:

I have reviewed the voluminous 130 page, **Great Lakes-St. Lawrence River Basin Water Resources Compact** legislation that received a hearing by the Environment and Natural Resources Committee on Thursday, February 14, 2008.

This legislation is the culmination of many years of effort, negotiation, compromise and cooperation. This is one of the most important pieces of legislation affecting the City of Kenosha in my sixteen years as mayor.

Passage of the **Great Lakes-St. Lawrence River Basin Water Resources Compact** is imperative for the protection and sustainability of the greatest natural resource in the United States. It will also enhance the economic viability of the Kenosha area, the State of Wisconsin, and the other seven Great Lake States.

I would like to personally thank the Environment and Natural Resources Committee; Senator Robert Wirth; Senator Neal Kedzie; Representative James Kreuser; Matthew Frank—DNR Secretary; Patrick Henderson—Deputy Secretary; Todd Ambs—DNR Water Division Administrator; Jill Jonas—DNR Bureau Director, Drinking Water and Groundwater; and Charles Ledin—DNR Bureau Director, Office of the Great Lakes.

Everyone of these dedicated ambassadors not only listened to Kenosha's concerns, questions, visions and hopes for this compact, they also acted on our interests. Prior versions of the compact, of which there were many, raised major flags for Kenosha. This final version, however, addresses each concern that Kenosha raised.

I heartily endorse **LRB-3207/P7 Great Lakes-St. Lawrence River Basin Water Resources Compact** and I will do everything in my power to promote its passage.

Edward St. Peter, General Manager of the Kenosha Water Utility is in full agreement with me and will support and promote its adoption.

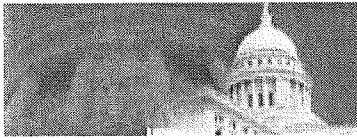
Sincerely,

John Antaramian, Mayor
CITY OF KENOSHA

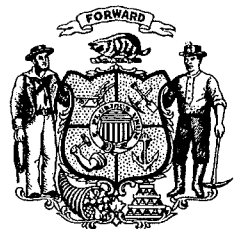
Edward St. Peter, General Manager
KENOSHA WATER UTILITY

c: Governor James Doyle
Senator Robert Jauch
Senator Neal Kedzie
Senator Dale Schultz

Senator Robert Wirth
Representative James Kreuser
Board of Water Commissioners



WISCONSIN STATE LEGISLATURE



**Hearing Notes
February 21, 2008**

Call Public Hearing to Order and ask Clerk to call the roll

- **ROLL CALL**

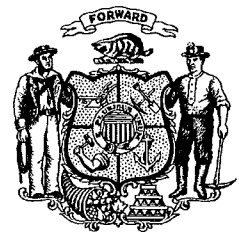
SB 523

LRB 3027, relating to the Great Lakes-St. Lawrence River Basin Water Resources Compact, withdrawals or water from the Great Lakes Basin, water withdrawal and use, water supply planning, water conservation, granting rule-making authority, and providing a penalty.

Public Hearing concludes, adjourn meeting.



WISCONSIN STATE LEGISLATURE



Testimony of Mayor Larry Nelson, City of Waukesha

To the Committee on Environment and Natural Resources

Regarding LRB 3207/1 (Great Lakes Compact)

Thursday, February 21, 2008

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Thank you, Chairman Miller and committee members, for the opportunity to speak with you today regarding the Great Lakes Compact. Even more importantly, thank you for your hard work on drafting a bill that explains how the Compact would be implemented in Wisconsin.

In particular, I want to thank Senator Miller and Senator Jauch for their leadership in finding pragmatic solutions, and Senator Kedzie for the months of hard work in the Legislative Council committee, which clearly identified the many questions and issues that needed answers. I also want to thank the Department of Natural Resources for their hard work on this bill and Governor Jim Doyle for his leadership in protecting our Great Lakes.

Everyone has helped make substantial progress toward agreement on a workable, understandable and passable Compact bill. I am confident that there is not only light at the end of the tunnel, but that there is water at the end of the pipe.

The City of Waukesha strongly supports passing the Great Lakes Compact. We also urge the Legislature to pass a Compact bill this year to provide needed guidance on water supply issues to our city and other Wisconsin communities, particularly those in Kenosha County and eastern Waukesha County. Passage will also provide new protections against diversions to other states – diversions in which the water, unlike here, would not be recycled back to the Great Lakes.

The current bill draft is a major step forward in crafting a workable bill that can pass the state Legislature. However, it should come as no surprise that the new 153-page draft will require additional refinement. The bill draft is approximately 50,000 words, any one of which can have a major effect on its impacts, and it will take some additional time to finish the work. Waukesha is currently developing a list of realistic changes we believe are needed to the draft. I am confident that we can work with you to develop reasonable modifications that will assure local legislators that the Compact permits water use decisions that are environmentally sustainable and that make wise use of taxpayer dollars.

It is worth noting that a number of provisions in the bill draft are intended to assure communities in Kenosha County that they will have an affordable, environmentally responsible water supply for their future. I am confident that similar assurances can be provided to the residents and lawmakers of Waukesha County and that the Great Lakes Compact can be passed in Wisconsin. Let's focus on passing a Compact that protects our water resources from potential raids – without return flow – from other states.

The City of Waukesha does not support substantive changes to the Compact. However, I also want to remind all the stakeholders that the Compact allows communities to obtain Great Lakes water if they are in counties that straddle the surface water divide and, most importantly, that they agree to return the water back to the lakes. If you support the Compact, you must support this important provision. Attempts to undo this ability or to make it impractical will only give many lawmakers a reason to kill the proposal – to protect their constituents and their communities. Let's work together to show skeptical lawmakers that the Compact will not threaten Wisconsin's ability to make the water supply decisions that make the most environmental and economic sense. This Committee and the DNR has accomplished that in Kenosha County. It is time now to work with Waukesha County legislators to provide the assurances they need.

The Compact cannot pit Wisconsin communities against each other if it is to succeed. The focus must be on its real purpose: to protect the Great Lakes and the economies of our states from diversions – without return of the water – to states without the water resources that we enjoy.

The City of Waukesha needs a new long-term water supply. Radium is only one of the growing quality and quantity problems in our current deep aquifer water supply. Because of years of overpumping by all of southeastern Wisconsin (including Milwaukee until the 1950s) and a geological feature that limits the water recharge, continued use of the deep aquifer is unsustainable.

After extensive studies with scientific experts, we have concluded that our best long-term options are to go east to Lake Michigan or to western Waukesha County for groundwater. The Lake Michigan option is the more sustainable of our two options because the water can be returned – or recycled – back to the lake. If we are forced to use groundwater from western Waukesha County, the water cannot be returned. It will be added to the Fox River and end up in the Gulf of Mexico. The loss of groundwater will also lead to fears that Wisconsin inland lakes, streams and wetlands could be affected.

Dane County's use of groundwater is a good example of this problem. As stated by Clean Wisconsin, "in Madison, falling groundwater levels means that water is getting sucked out of our lakes in places where in the past, the groundwater helped feed the lakes." The ability to use Great Lakes surface water, with return flow, would be the much better environmental solution for Wisconsin.

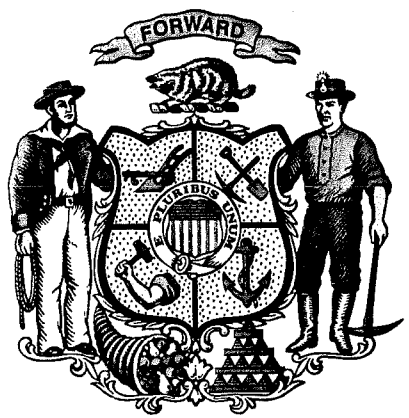
The city of Waukesha has not yet decided which long-term option it will pursue. But if we apply for Lake Michigan water, you can be sure that our application will be a role model and set a precedent that will be difficult for other communities in straddling counties to meet.

The City of Waukesha is proud of our leadership on water conservation issues, including enactment of what I have been told is the most comprehensive water conservation plan in the Midwest. For example, we have totally banned daytime lawn sprinkling in order to prevent evaporation and reduce demand. Nighttime sprinkling is limited to two days per week. We have reduced our water use by 7.5%.

We were the first community in Wisconsin to propose water rates that increase as use goes up and have received Public Service Commission approval for this historic change. Other communities, including New Berlin and Madison, are now considering following our lead on conservation rates. We will continue to provide innovation in water conservation, but conservation alone cannot solve our water supply problems.

We are also proud of the progress we have made in complying with federal and state mandates to reduce the radium in our water. Our city has committed over \$13 million to achieve final radium compliance. However, that plan is only the short-term solution. We need to move forward on a long-term solution.

I believe the Compact can help us do that. The Compact can provide the framework and Waukesha can provide the proof that the Compact works. I look forward to working with you to pass Compact legislation this spring.





Wisconsin Wildlife Federation

MACKENZIE ENVIRONMENTAL CENTER

W7303 COUNTY HIGHWAY CS, POYNETTE, WI 53955 (608) 635-2742 • (800) 897-4161

www.wiwf.org

AFFILIATED WITH NATIONAL WILDLIFE FEDERATION

SB 523
folder

Feb. 21
2008

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Chairman Miller and Members of the Senate Environment and Natural Resources Committee. Good afternoon.

This is truly an historical day. A day that will be long remembered by the citizens of the state as the date their state legislature stepped forward to protect two of their greatest assets, Lake Michigan and Lake Superior. Each of you is playing a major role in defining the future protection of these greatest assets of Wisconsin and the other Great Lakes States.

Thank you for the opportunity to testify here today on behalf of the Wisconsin Wildlife Federation. You know that the Wisconsin Wildlife Federation represents 160 hunting, fishing and trapping groups located throughout the State of Wisconsin. Of particular relevance for today is that we represent the Great Lakes Sports Fishing Groups in Marinette, Green Bay, Two Rivers and Manitowoc, Sheboygan, Port Washington, Milwaukee, Racine and Kenosha. You will also hear directly today from another of our affiliates, the Wisconsin Federation of Great Lakes Sports Fishing Clubs.

The Wildlife Federation supports this historic bill. You will hear today from other members of the Coalition to Protect the Great Lakes on many details of the bill, the Federation joins in their comments.

We would like to use our testimony today to directly address the misguided and dangerous efforts by some organizations and individuals in this state that will destroy this important effort to protect the Great Lakes for future generations.

These organizations and individuals, while stating that they support the Compact, insist that you vote down this bill and send the Compact back to all of the other Great Lakes states to change the voting procedure for approval of diversions from one where all of the states that own the water in the Lakes must approve an out of basin diversion to where a simple majority of the states must approve the diversion.

This is truly a cynical request. These organizations and individuals know full well that following their request is the death knell for the Great Lakes Compact. The Legislatures and Governors in the states of Minnesota,

Illinois and Indiana have already signed the Compact into law in their states. Both houses of the New York Legislature have passed the Compact and one house each in the states of Pennsylvania and Ohio has passed the Compact. The Compact is also advancing in the Michigan Legislature. The legislative votes in these states have been overwhelmingly in favor of the Compact.

As elected officials, put yourself in the shoes of your colleagues and Governors in those other states. Would you now reverse your vote and reopen Compact negotiations?

There is no other way to paint the picture. Those that are calling for the reopening of the Compact negotiations are either intentionally or with great naiveté, killing the Compact.

Let's look at the issue that they are advancing. They state that under this Compact, no one state should be able to deny an out of basin diversion.

This request ignores two fundamental legal principles. The first is that the water in the Great Lakes is not owned by just a majority of the states, it is owned by each and every state and it is totally unreasonable for any one state to give up its property rights in the waters of the Great Lakes. No business would ever do that, no individual would do that.

Secondly, the Compact does not create the one-state veto. That is already is the law and in fact the Compact improves the law by guaranteeing, for the first time, accountability for any state that would arbitrarily deny the diversion of water in another state.

We have attached to our testimony the current law that applies, the federal Water Resources Development Act. Section 1962d-20 (b) (2) provides "It is therefore declared to be the purpose and policy of the Congress in this action...to prohibit any diversion of Great Lakes water by any State, Federal agency, or private entity for use outside the Great Lakes basin unless such diversion is approved by the Governor of each of the Great Lakes States;"

This current law does not require the denying Governor to meet any objective standards or give any rationale when they deny a permit. That is one major reason why the Compact and this bill are so very important. They provide accountability to the decision-making process. A denial by a Governor must be based on objective standards and would have to be defended by that Governor in the federal courts. That is a great improvement in the law. It is no accident that the Mayors of Waukesha and New Berlin, the two communities who have expressed the most immediate interest in Great Lakes water, are supporting the Compact. They know that the Compact improves their opportunity to obtain water from Lake Michigan. Those that are demanding a renegotiation of the Compact are hurting

Waukesha and New Berlin and other Wisconsin communities out of the basin.

On behalf of thousands and thousands of Wisconsin sportsmen and women, please reject their request. Approve this historic bill. Help the cities of Waukesha and New Berlin and most importantly protect the Great Lakes for our children and grandchildren and beyond.

Thank you for this opportunity to testify.

Submitted by:

George Meyer
Executive Director

February 21, 2008

WATER RESOURCES DEVELOPMENT ACT OF 1986

As amended September, 2000

1962d-20. Prohibition on Great Lakes Diversions

(a) The Congress finds and declares that -

1. The Great Lakes are the most important natural resource to the eight great Lakes States and two Canadian provinces, providing water supply for domestic and industrial use, clean energy through hydropower production, an efficient transportation mode for moving products into and out of the great Lakes region, and recreational uses for millions of United States and Canadian citizens;
2. the Great Lakes need to be carefully managed and protected to meet current and needs within the Great Lakes basin and Canadian provinces;
3. any new diversions of Great lakes water for use outside of the Great Lakes basin will have significant economic and environmental impacts, adversely affecting the use of this resource by the Great Lakes states and Canadian provinces; and
4. four of the Great Lakes are international waters and are defined as boundary waters in the Boundary Water Treaty of 1909 between the United States and Canada, and as such any new diversion of Great Lakes water in the united States would affect the relations of the Government of the United States with the Government of Canada.

(b) It is therefore declared to be the purpose and policy of the Congress in this action -

1. to take immediate action to protect the limited quantity of water available from the Great Lakes system for use by the Great Lakes States and in accordance with the Boundary Waters Treaty of 1909;
2. to encourage the Great Lakes States, in consultation with the Provinces of Ontario and Quebec, to develop and implement a mechanism that provides a common conservation standard embodying the principles of water conservation and resource improvement for making decisions concerning the withdrawal and use of water from the Great Lakes Basin;
3. to prohibit any diversion of Great Lakes water by any State, Federal agency, or private entity for use outside the Great Lakes basin unless such diversion is approved by the Governor of each of the Great Lakes States; and
4. to prohibit any Federal agency from undertaking any studies that would involve the transfer of Great Lakes water for any purpose for use outside the Great Lakes basin.

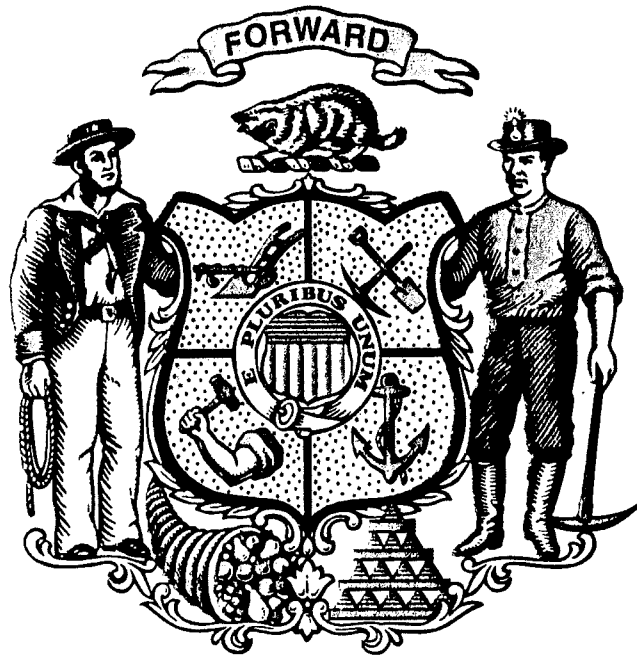
(c) As used in this section, the term "Great Lakes State" means each of the States of Illinois, Indiana, Michigan, Minnesota, Ohio, Pennsylvania, New York, and Wisconsin.

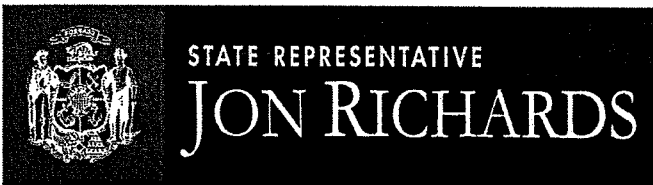
(d) No water shall be diverted or exported from any portion of the Great Lakes within the United States, from any tributary within the United States of any of the Great Lakes, for use outside the Great Lake basin unless such diversion or export is approved by the Governor of each of the Great Lakes States.

(e) No Federal agency may undertake an study, or expend any Federal funds to contract for any study, of the feasibility of diverting water from any portion of the Great Lakes within the United States, or from any tributary within the United States of any of the great Lakes, for use outside the Great Lakes basin, unless such study or expenditure is approved by the Governors of each of the Great Lakes States. The prohibition of the preceding sentence shall not apply to any study or data collection effort performed by the Corps of Engineers or other Federal agency under the direction of the International Joint Commission in accordance with the Boundary Waters treaty of 1909.

(f) This section shall not apply to any diversion of water from any of the Great Lakes which is authorized on the date of the enactment of this Act.

(Nov. 17, 1986, P.L. 99-662, Title XI, 1109, 100 Stat. 4230.)





ASSISTANT MINORITY LEADER
WISCONSIN STATE ASSEMBLY

SB 523
folder

**TESTIMONY OF REP. JON RICHARDS
IN SUPPORT OF LRB-3207
WISCONSIN'S IMPLEMENTATION OF THE GREAT LAKES-ST. LAWRENCE
RIVER BASIN WATER RESOURCES COMPACT**

February 21, 2008

Wisconsin State Senate Committee on Environment and Natural Resources

Chairman Miller and members of the committee thank you for allowing me testify at this historic hearing on the bill that will count as Wisconsin's ratification of the Great Lakes-St. Lawrence River Basin Water Resources Compact. I regret that Rep. Gunderson refused to accept Chairman Miller's invitation to make this a joint hearing with the Assembly Committee on Natural Resources. The Assembly leadership's announcement of their intention to form an axis with the Ohio Senate to scuttle the Compact is deeply troubling.

For almost two years Wisconsin legislators and others have been working together to fashion a version of the Compact that works for Wisconsin. Like the five year effort that preceded it with the Great Lakes governors, our effort was marked by a spirit of actively including stakeholders and bi-partisanship. As a member of the Legislative Council Study Committee on the Compact that began in the last legislative session and continued into this one, I want to thank Sen. Kedzie for his work as chairman of that committee who exhibited the patience of Job and the wisdom of Solomon in his role.

The seven-year, multi-state, international effort that brought this bill before you today is a testament to the importance of the Great Lakes. Important not only to economic development, trade, tourism and recreation, but also to the very fabric of our identity as a region. In an increasingly thirsty world, our abundant supply of fresh water will become ever more sought after and will be a magnet for economic growth and jobs. The Great Lakes are already coveted by other states, and other countries, outside the Great Lakes basin that grow more populous and thirstier by the day.

A proposal to build a coal slurry pipeline with Lake Superior water from Duluth, Minnesota to the West and a proposal to ship Great Lakes water to China in 1988 are examples of the lengths people will go to get their hands on the largest body of fresh water in the world. Diverting water outside the Great Lakes only compounds the problems we are starting to see with low water levels in Lakes Michigan and Superior. Those levels are reaching historic lows and appear to be going lower.

Under current rules it is extremely difficult to remove water from the Great Lakes. And that is how it should be. But the current laws protecting the Great Lakes are so fragile that one arbitrary act of Congress or one bad court decision could leave our lakes defenseless from unrestricted diversions to the southern or western United States or other thirsty corners of the world.

The Great Lakes Compact is our region's best and possibly last, shot at making the rules that will govern the use of Great Lakes water. As thirstier parts of the United States gain more seats in Congress, our power will only grow weaker over time. The Compact gives the Great Lakes states the power we need to protect the lakes. Failing to adopt the Compact potentially puts crucial decisions about the fate of the Great Lakes in the hands of politicians from the Southwest and Southeast, where in the face of historic droughts this year they looked again to the Great Lakes as a potential source of fresh water.

The version of the Compact you have before you today is a good, carefully drafted bill that reflects months of work to ensure that Wisconsin's version of the Compact tracks with our current water use laws and meets the needs of our communities and industry. Like the Compact signed two years ago in Milwaukee, it is a compromise, as a bill that balances the needs of the five Great Lakes, eight states and two Canadian provinces must inevitably be.

Opponents to this bill could have rolled up their sleeves to fashion a version of the Compact that reflects a balancing of interests and that has any chance of meshing with the version signed by all of the Great Lakes governors and already passed by four state legislatures. Instead, they have chosen to offer only empty platitudes and Orwellian rhetoric about the importance of protecting the Great Lakes.

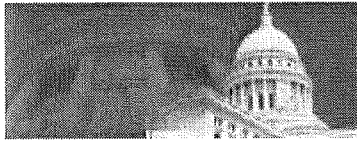
Among their arguments, the easiest to rebut is one raised by a State Senator in Ohio, echoed by Wisconsin legislators and first on the list of complaints a coalition opposing the Compact has circulated to the legislature. The Ohio State Senator, and people who believe him, has been arguing for some time that the Compact extends the public trust doctrine to groundwater.

The Wisconsin Legislative Council, in a memo attached to my testimony, concludes that argument is false. In Wisconsin, the public trust doctrine is created in article IX, section 1 of our state constitution. Our constitution trumps acts of the legislature. The memo from our legislative attorneys states that no reported court decisions in Wisconsin have extended the public trust doctrine in navigable water to groundwater and nothing in the Compact supports a judicial expansion of the scope of the public trust doctrine to groundwater.

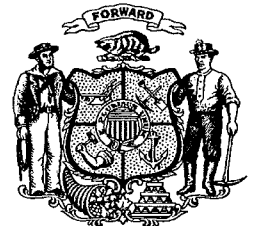
Most of our opponents other arguments boil down to demanding that all of the Great Lakes governors rescind their signatures to an agreement those governors negotiated over five years and reopen those negotiations to meet our opponents demands.

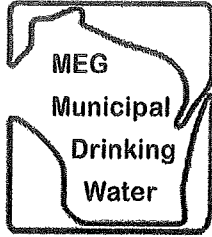
We cannot allow our state and our region's ability to control the fate of the Great Lakes to slip away because of political games. If the State Senate passes a version of the Compact, I intend to bring that bill up for a vote in the State Assembly.

Our economy and environment will suffer if we turn our backs on this historic opportunity to protect the largest body of freshwater in the world. In Wisconsin, we have never shied away from doing the right thing and we have never left the big battles up to someone else. We must pass Wisconsin's version of the Compact to protect our most important natural resource.



WISCONSIN STATE LEGISLATURE





MEG MUNICIPAL DRINKING WATER
A Division of the Municipal Environmental Group

P.O. Box 927
Madison, WI 53701-0927
Telephone (608) 283-1788
Facsimile (608) 283-1709

February 21, 2008

Senate Committee on Environment and Natural Resources
Senator Mark Miller, Chair
Room 409 South
State Capitol
P.O. Box 7882
Madison, WI 53707-7882

SB 523
folder

Subject: Support for the Great Lakes-St. Lawrence River Basin Water Resources Compact and Implementing Legislation

Dear Senator Miller and Committee Members:

The Municipal Environmental Group - Water Division (MEG), is a state association of approximately 43 Wisconsin municipalities with water utilities both within the Great Lakes Basin and outside the Basin. MEG members include both surface water systems and groundwater systems. MEG's mission is to follow and provide input on laws, regulations and policies affecting municipal water utilities.

Consistent with its mission, MEG has closely followed the development of both the Compact and the Compact implementation legislation. MEG provided extensive comments to the Council of Great Lakes Governors as the Compact was being developed. And, MEG has closely followed the development of the Compact implementation legislation through the Legislative Council Committee, the Governor's group, and meetings with legislators and Department of Natural Resources staff. Through these forums, MEG has had the opportunity to raise its questions and concerns about the Compact and the proposed implementing legislation.

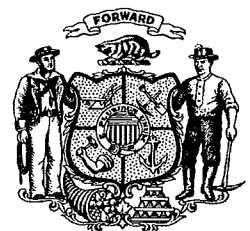
The Compact implementation bill before the Senate Committee on Environment and Natural Resources today is the result of an enormous amount of work and compromise. We are appreciative that many of the concerns of municipal water utilities have been addressed in the bill, and we are confident that remaining concerns can be worked out prior to final passage. Therefore, while the bill may not be perfect, MEG believes the bill is a very good start and for that reason it wholeheartedly supports the introduction of the bill by the Committee.

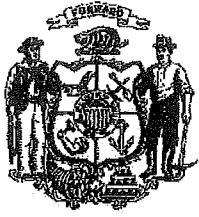
MUNICIPAL ENVIRONMENTAL GROUP - WATER DIVISION

Lawrie Kobza, Legal Counsel



WISCONSIN STATE LEGISLATURE





JIM KREUSER

State Representative • 64th Assembly District

SB 523
folder

DEMOCRATIC LEADER - WISCONSIN STATE ASSEMBLY

TESTIMONY OF REP. JIM KREUSER
SENATE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES
February 21, 2008

Due to previous commitments I am unable to be at your hearing today, but I do want to thank you, Chairman Miller, for holding this public hearing on the Great Lakes Water Resources Compact in Kenosha.

First I want to thank the Committee Chair as well as the State DNR for their leadership and all the work they put into drafting this compact. I would also like to thank Mayor John Antaramian and Ed St. Peter, General Manager of the Kenosha Water Utility, for the role they played in working with myself and others to ensure that the needs of Kenosha were addressed in the Compact.

As the Committee is aware, Kenosha is a very unique straddling community. For many years, our city has worked together with neighboring municipalities to service their needs while maintaining the stability of our Great Lakes by returning water that is withdrawn back into the basin. We value the vitality of our Great Lakes and are committed to their long term health.

That is why I support the Great Lakes Compact bill that is before your committee today. I join Mayor Antaramian in wholeheartedly endorsing the language in this bill. We all worked together closely to achieve a solution to protecting our Great Lakes while maintaining the service our water utility provides to our community. This bill before you today does that and I urge your committee to approve it and move it forward.

This Compact protects the future water supply of Kenosha for generations to come. It allows our community and our county to continue to grow and prosper and it protects the greatest economic resource we have, Lake Michigan.

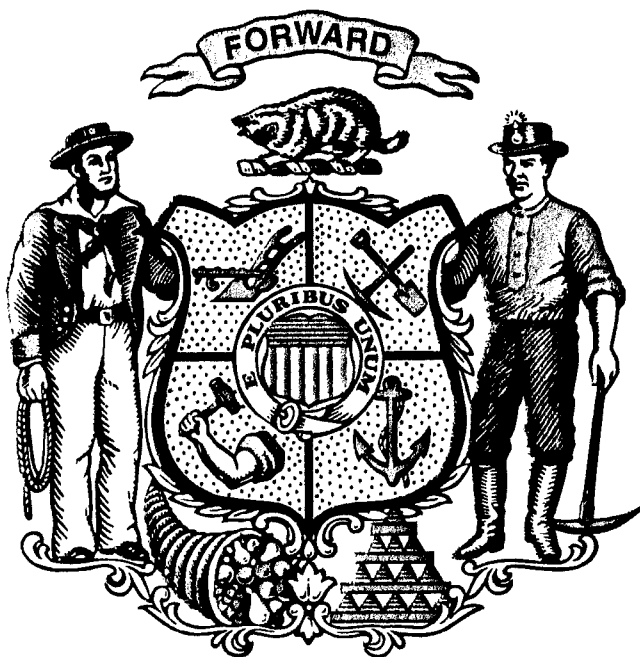
I would also like to express my extreme concern with the comments made by Assembly Speaker Mike Huebsch and Assembly Natural Resources Chair Rep. Scott Gunderson. If they are allowed to derail this compact the economic future of our county will undoubtedly be threatened.

I am encouraged to hear that this bill has received bipartisan support in the Senate. I can only hope that area Republicans follow this example. Assembly Democrats are committed to passing the Great Lakes Compact and if we are able to get the assistance of area Republican members such as Rep. Samantha Kerkman of Randall, who also represents Somers, and Rep. Tom Lothian of Williams Bay we can make it happen this year.

Thank you again for coming to Kenosha today and for your leadership on this crucial issue. Rest assured that you will have my full support when it comes to passing this legislation through the State Assembly.

MADISON: P.O. Box 8952, Madison, WI 53708-8952 • (608)266-5504
FAX: (608) 282-3664 • Toll-Free: 1-888-534-0064 • E-MAIL: Rep.Kreuser@legis.state.wi.us
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Board of Water Commissioners

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Edward St. Peter
General Manager

4401 Green Bay Road
Kenosha, WI 53144
Phone (262) 653-4300
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"Providing and Protecting Kenosha's Greatest Natural Resource"

TESTIMONY OF EDWARD ST. PETER
SENATE COMMITTEE ON ENVIRONMENTAL AND NATURAL RESOURCES

February 21, 2008

Ed St. Peter – testimony

Thank you Chairman Miller for scheduling the public hearing on this historic legislation, in Kenosha. My name is Ed St. Peter. I am the General Manager of the Kenosha Water Utility. Next week I begin my thirty-eighth year of fulfilling the Kenosha Water Utility's mission of: "Providing and Protecting Kenosha's Greatest Natural Resource . . . Water"

I appreciate the opportunity to share a few comments and offer my support. In addition, I have the privilege of providing testimony for Representative Jim Kreuser, MEG Municipal Environmental Group and Kenosha Mayor John Antaramian.

The first testimony is from Representative Jim Kreuser from Kenosha. (Attached)

The next testimony is from MEG Municipal Environmental Group. (Attached)

Ed St. Peter – testimony (continued)

Mayor John Antaramian sends his "warm" greetings from Arizona – yesterday's expected high in Phoenix, Arizona was 67 degrees. In Kenosha the low was expected to be -8, with wind chills of -12. And we still have lots of snow and very little salt.

You know what that tells me?? Arizona is a nice place for a **vacation**.

But how about a place to live, a place to work, a place to raise a family, a place that has an abundant and sustainable water supply; where people have opportunity for themselves and their children to succeed; and a quality of life that allows them to delight in the fruits of their labor.

It's not Arizona or Florida or California – it is Kenosha and Milwaukee and Wisconsin!!

And we want it to stay that way – to do that, we must protect and manage our water – we must adopt the Great Lakes Compact.

The next testimony is from John Antaramian, mayor of the City of Kenosha (Attached).

Ed St. Peter – testimony (continued)

In Kenosha, we have been providing water across the subcontinental divide with return flow, which in this legislation is called an "Interbasin Transfer," since **1964**.

Those facilities include: 40 miles of water mains; 3 water storage tanks (2 MG); 2 booster stations (2 MGD); and over 2,000 water connections that provide water for residential, commercial, industrial, and fire protection.

The water plant, right across the harbor, when built was the largest microfiltration plant in the world. During 2007, the water plant pumped an average of 14 million gallons per day of the highest quality water in the nation, maybe in the world. It sure does help when we start with great water from Lake Michigan.

I also manage the Kenosha Wastewater Treatment Plant. This plant is also right on Lake Michigan, just a couple of miles south of here. The effluent quality of the water discharged back into Lake Michigan is also of the highest quality. The 2007, average return flow to Lake Michigan was 22 million gallons per day. So in 2007, the Kenosha Water Utility added back to the Great Lakes an average of 8 million gallons per day.

I checked back in our records and every year, including the drought year of 1988, the wastewater return flow exceeded the treated water pumped; therefore, the Kenosha Water Utility adds water to the Great Lakes each and every year.

I want to thank Paula Touhey, Director of the Kenosha Public Museum, for hosting this hearing today. There are some great historical displays here to see.

I am a real history guy. In fact, my son is a history teacher at Tremper High School here in Kenosha. I truly believe we are wise if we learn from our history. Do you remember your high school history class?

Do you remember the **Seven Wonders of the World**?

In 2006, USA Today conducted a nation-wide survey to select the **Eighth Wonder of the World**. The top three picks were:

Third Place – Great Wall of China

Second Place – Panama Canal

First Place – Grand Canyon – beautiful, majestic. Some have said, just looking out over the rim will take your breath away.

I submit to you, that if you just look outside this building, you will see the **Eighth Wonder of the World – Our own Great Lakes!**

The Great Lakes contain about 95 percent of North America's fresh surface water resources and about 21 percent of the entire world's supply.

There are 6 quadrillion gallons. That's a six with 15 zeros.

The Great Lakes provides drinking water for 35 million people.

It provides 56 billion gallons of water per day for municipal, agricultural, industrial and fire protection use.

Back to the Seven Wonders of the World –

How many of them could you go visit today??

Only one site remains – Great Pyramid of Giza (Geeza)

The other six have been destroyed. We must act and act now!! We can't let history repeat itself!

I've heard about the “**strong compact**”; the “**done right compact**”; and the latest is the “**strong and fair compact**”.

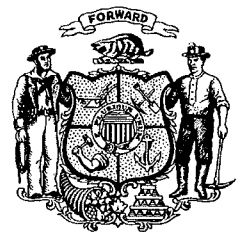
I am calling for “**This Compact**” to be approved “**This Session**” to preserve and protect the **Greatest Wonder of the World!!!**

(Water bottle) Here's to the Greatest water coming from the greatest fresh water system in the world – Kenosha Water & The Great Lakes!!

Thank You



WISCONSIN STATE LEGISLATURE



1785 Juniper Circle
South Milwaukee, WI 53172
February 21, 2008

SB 523
folder

Great Lakes Compact Hearing
Kenosha Wisconsin

To: The leaders of the Great Lakes States February 21, 2008 Kenosha, WI

Dear Highly Respected Leaders:

Thank you for allowing me to be represented here.

First of all, I believe that a Great Lakes Water Compact is "extremely necessary." for future development and protection of our fabulous lakes. But there are a number of very important questions that require answers before we jump into frigid waters before knowing how to swim. No. 1. Why isn't anyone rushing to complete an inventory of the waters being taken out of as well as being returned to the Great Lakes? 2. What does Eastern Riparian Water Doctrine say about all this water use? 3. Will Chicago continue to take 2,1 billions of gallons of water per day? 4. Will the depth of the St. Clare River stay at the same depth that the Corps of Engineers created in the past? 5. How will water be affected in its flow from Lake Erie to Lake Ontario? (Niagara Falls)

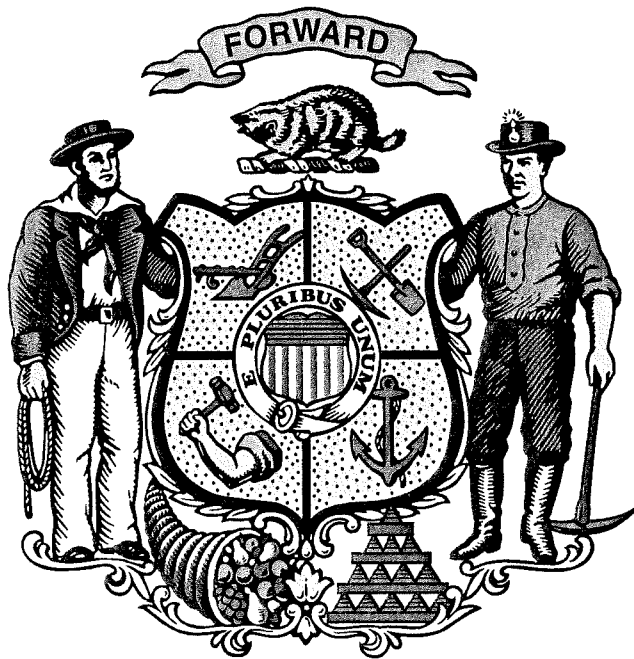
As a "common sense" ecologist I wouldn't sign any agreement until these questions have definite answers! Now, I'm a very conservative water user, you wouldn't want some of my views; but approval by all states rather than a majority or a 2/3rds majority scares me. We want to control the water use but not to the detriment of future development in the Great Lakes Region.. Do you want a really big problem? How do you prevent our lakes from becoming too salty?

Thank you for this opportunity.

Sincerely,

Edward C. Mueller

cc:





SB 523

TESTIMONY IN SUPPORT OF LRB 07-32071

Statement of

Wisconsin League of Conservation Voters February 21, 2008

Good morning. My name is Adrienne Roach and I am the Southeast Organizer for the Wisconsin League of Conservation Voters. Thank you for this opportunity to testify.

For the last two years, in coordination with the many organizations in the Coalition to Protect the Great Lakes, Wisconsin League of Conservation Voters has advocated for the introduction and passage of **The Strong Compact for a Strong Wisconsin**. As you know, the strong version of the Compact was selected as one of four Conservation Priorities by Wisconsin's conservation community for this legislative session. As a Conservation Priority, it has the support of more than 50 organizations.

However, over the course of the last two years, it has gained the support of many, many more including local businesses, more than 40 local elected officials and thousands of Wisconsin citizens.

After two years, we are very pleased to be here today to be discussing actual legislation. We appreciate all of the committee members' hard work on this. While several of our partners will share the coalition's concerns about the technical details in this 150 page document, I am here to impress upon you how incredibly important A STRONG plan to protect the Great Lakes is to citizens all around Wisconsin. Some citizens had time to write out their thoughts, and you'll receive copies of all of these letters, but I want to highlight a few brief sentiments from citizens who were not able to be here today:

- I look at Lake Michigan every day. There's nothing more important than water, the next wars in the world will be fought over water not oil. We need to protect our water resources to survive. We've got western states in a drought like we've never seen before; there will be nothing to stop them from taking Great Lakes Water. We are experiencing threats from China, western states and from all over the world. These threats are already knocking at our door; we need to do

something about it, right now, by passing a strong compact. – Donna Schliemann, Milwaukee

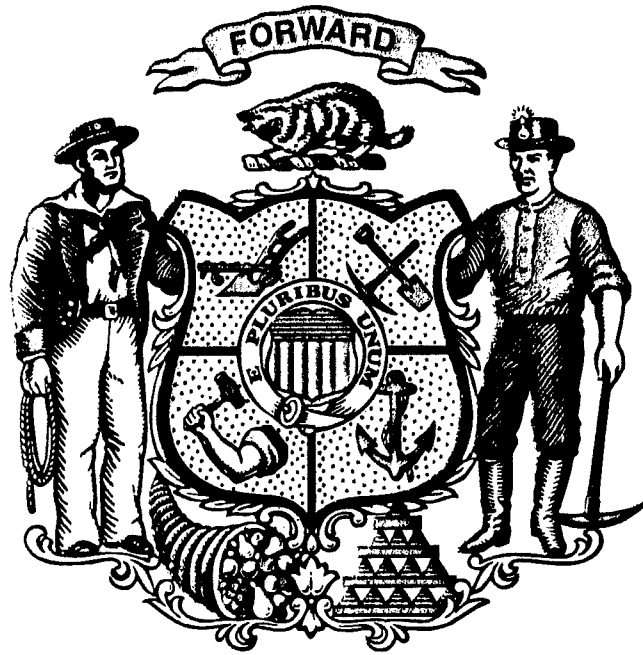
- The Great Lakes Compact is very important. The Strong Compact is necessary to protect our Great Lakes. Regulations with massive loop holes are not the way to go. If we are to really protect our Great Lakes we must have strong laws to uphold conservation standards. Wisconsin's legislature needs to stand up and show its commitment to this issue. A Strong Great Lakes Compact is beneficial for everyone. Act now and demand a stronger compact for future generations here in Milwaukee. –Jessica Helgesen, UW-Milwaukee Student
- I want to encourage our legislators to act swiftly to pass a strong Great Lakes Compact for several reasons. Selfishly, I want to make sure that this natural resource is preserved and kept healthy because we use the Lake on a weekly basis: windsurfing, kayaking, and just walks along the shore. But perhaps more importantly, I believe that pressures on this natural resource will only intensify over the next few decades. Our ability to preserve and protect the Great Lakes will be a major factor on our ability, as a region, to prosper. Having lived in the south, and having family members that live in Arizona, I am keenly aware that this resource is coveted by others. Tom Schnaubelt, Dean for Community Engagement and Civic Learning at the University of Wisconsin-Parkside—Kenosha, WI
- The Great Lakes have faced many serious challenges over time from negligent use and disregard for the health of this tremendous, but fragile natural resource. The Strong Great Lakes Compact is extremely important to prevent deterioration and abuse due to harmful diversions. I urge legislators not to weaken the bill but to go forward and vote responsibly to maintain and protect one of the most valuable resources in the world. Loren Hanson--Janesville, WI
- I have lived in Waukesha County my entire life. As a child I took many trips on the Inter urban street car, my destination being Bradford Beach on the shores of Lake Michigan. "The Lake" is a definite part of my life. As I grew older I took my children to Bradford Beach, my husband, John, owned a boat moored at McKinley Marina. Just yesterday, I had lunch at the Milwaukee Art Center and was able to look out at the beauty of Lake Michigan, even in winter!!! Looking back I have been so lucky to have experience this natural resource for my entire life. Now, I think it is important NOT to let the Great Lakes be degraded any more than they already have been. Donna Goodrich—New Berlin, WI

We support this bill draft. However, in order for this bill draft to meet the standards of **The Strong Compact for a Strong Wisconsin** that so many are seeking, we encourage you to strengthen the in-basin standards to include this interim period between the passage of the bill in Wisconsin and the passage of the bill at the federal level. In




addition, it is critical that the bill clearly spell out that water being returned to the lakes is of a temperature and quality that will not harm habitat and drinking water.

Given how deeply the typical Wisconsin conservation voter cares about protecting the Great Lakes, we urge you to support LRB 07-32071 with the two improvements.

Thank you.

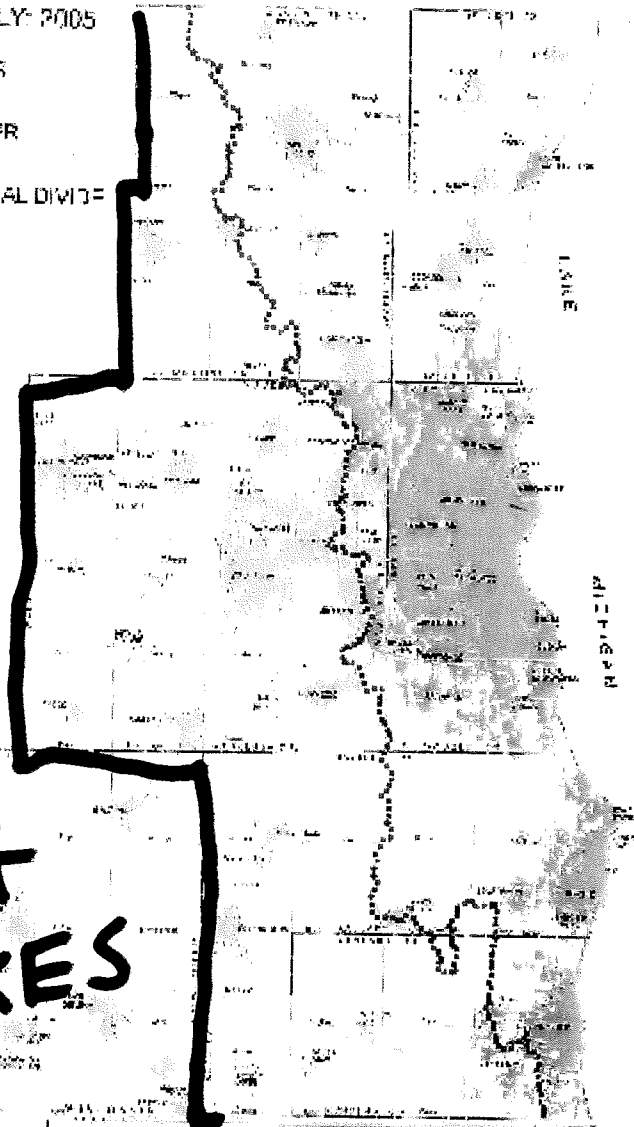


PUBLIC WATER SUPPLY: 2005

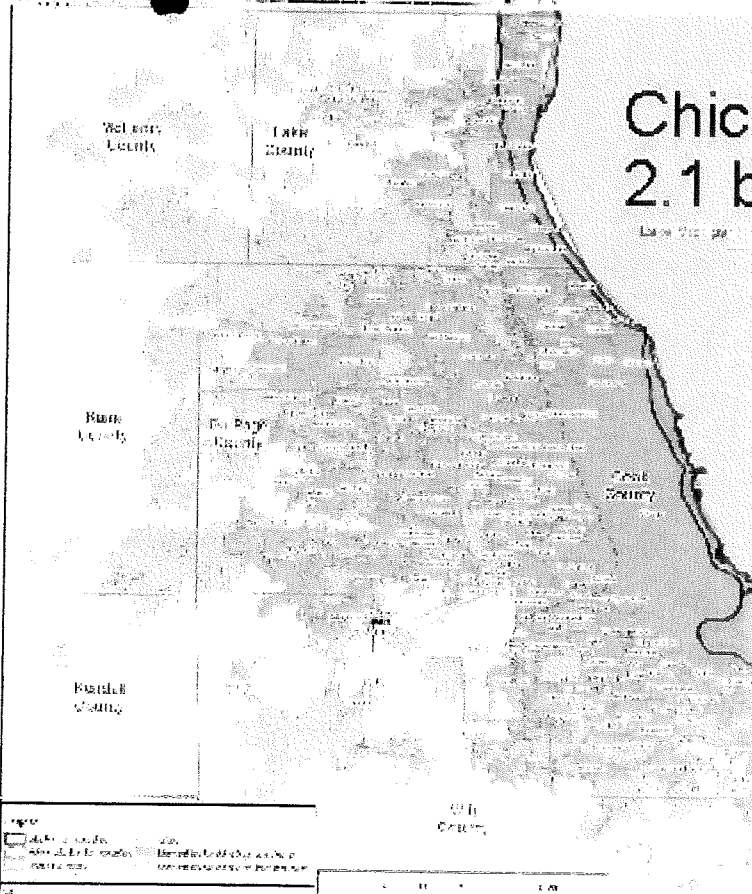
-  GROUNDWATER
-  SURFACE WATER
-  SUBCONTINENTAL DIVIDE

SB 523
folder

No
Water
From
Great
LAKES



Kenosha Diversion
0 gallons/day



Chicago Diversion
2.1 billion gallons/day



Municipal
Environmental