

# Union Calendar No. 560

110TH CONGRESS  
2D SESSION

# H. R. 6577

[Report No. 110-863]

To express the consent and approval of Congress to an interstate compact regarding water resources in the Great Lakes-St. Lawrence River Basin.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 23, 2008

Mr. OBERSTAR (for himself, Mr. LATOURETTE, Mr. CONYERS, Mr. EHLERS, Mr. HIGGINS, Mr. ENGLISH of Pennsylvania, Ms. SUTTON, Mr. SENSENBRENNER, Mr. RYAN of Ohio, Mrs. MILLER of Michigan, Ms. BALDWIN, Mr. CAMP of Michigan, Ms. KAPTUR, Mr. PETRI, Mrs. JONES of Ohio, Mr. EMANUEL, Mr. KAGEN, Mr. LIPINSKI, Mr. NADLER, Mr. VISCLOSKY, Ms. MOORE of Wisconsin, Mr. OBEY, Mr. LEVIN, Mr. ROGERS of Michigan, Mr. KIRK, Mr. DINGELL, and Mr. KILDEE) introduced the following bill; which was referred to the Committee on the Judiciary

SEPTEMBER 22, 2008

Additional sponsors: Ms. SLAUGHTER, Mr. McCOTTER, Mr. UPTON, Mr. KNOLLENBERG, Ms. KILPATRICK, Mr. ACKERMAN, Mrs. MALONEY of New York, Mr. WILSON of Ohio, Mr. COSTELLO, Mr. HOEKSTRA, Mr. REYNOLDS, Mr. KIND, Mr. MCHUGH, Mr. DONNELLY, Mr. RYAN of Wisconsin, Mr. WALSH of New York, Mr. HINCHEY, Mr. ARCURI, Mr. WALBERG, Mr. KUHL of New York, and Mr. TIBERI

SEPTEMBER 22, 2008

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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## A BILL

To express the consent and approval of Congress to an



1       **“GREAT LAKES-ST. LAWRENCE RIVER**  
2       **BASIN WATER RESOURCES COMPACT**

3                       **“ARTICLE 1**  
4       **“SHORT TITLE, DEFINITIONS, PURPOSES**  
5                       **AND DURATION**

6       **“Section 1.1. Short Title.** This act shall be known  
7 and may be cited as the “Great Lakes-St. Lawrence River  
8 Basin Water Resources Compact”.

9       **“Section 1.2. Definitions.** For the purposes of this  
10 Compact, and of any supplemental or concurring legisla-  
11 tion enacted pursuant thereto, except as may be otherwise  
12 required by the context:

13            “‘Adaptive Management’ means a Water resources  
14 management system that provides a systematic process for  
15 evaluation, monitoring and learning from the outcomes of  
16 operational programs and adjustment of policies, plans  
17 and programs based on experience and the evolution of  
18 scientific knowledge concerning Water resources and  
19 Water Dependent Natural Resources.

20            “‘Agreement’ means the Great Lakes-St. Lawrence  
21 River Basin Sustainable Water Resources Agreement.

22            “‘Applicant’ means a Person who is required to sub-  
23 mit a Proposal that is subject to management and regula-  
24 tion under this Compact. ‘Application’ has a cor-  
25 responding meaning.

1           “‘Basin’ or ‘Great Lakes-St. Lawrence River Basin’  
2 means the watershed of the Great Lakes and the St. Law-  
3 rence River upstream from Trois-Rivières, Québec within  
4 the jurisdiction of the Parties.

5           “‘Basin Ecosystem’ or ‘Great Lakes-St. Lawrence  
6 River Basin Ecosystem’ means the interacting components  
7 of air, land, Water and living organisms, including human-  
8 kind, within the Basin.

9           “‘Community within a Straddling County’ means any  
10 incorporated city, town or the equivalent thereof, that is  
11 located outside the Basin but wholly within a County that  
12 lies partly within the Basin and that is not a Straddling  
13 Community.

14          “‘Compact’ means this Compact.

15          “‘Consumptive Use’ means that portion of the Water  
16 Withdrawn or withheld from the Basin that is lost or oth-  
17 erwise not returned to the Basin due to evaporation, incor-  
18 poration into Products, or other processes.

19          “‘Council’ means the Great Lakes-St. Lawrence  
20 River Basin Water Resources Council, created by this  
21 Compact.

22          “‘Council Review’ means the collective review by the  
23 Council members as described in Article 4 of this Com-  
24 pact.

1       “‘County’ means the largest territorial division for  
2 local government in a State. The County boundaries shall  
3 be defined as those boundaries that exist as of December  
4 13, 2005.

5       “‘Cumulative Impacts’ means the impact on the  
6 Basin Ecosystem that results from incremental effects of  
7 all aspects of a Withdrawal, Diversion or Consumptive Use  
8 in addition to other past, present, and reasonably foresee-  
9 able future Withdrawals, Diversions and Consumptive  
10 Uses regardless of who undertakes the other Withdrawals,  
11 Diversions and Consumptive Uses. Cumulative Impacts  
12 can result from individually minor but collectively signifi-  
13 cant Withdrawals, Diversions and Consumptive Uses tak-  
14 ing place over a period of time.

15       “‘Decision-Making Standard’ means the decision-  
16 making standard established by Section 4.11 for Proposals  
17 subject to management and regulation in Section 4.10.

18       “‘Diversion’ means a transfer of Water from the  
19 Basin into another watershed, or from the watershed of  
20 one of the Great Lakes into that of another by any means  
21 of transfer, including but not limited to a pipeline, canal,  
22 tunnel, aqueduct, channel, modification of the direction of  
23 a water course, a tanker ship, tanker truck or rail tanker  
24 but does not apply to Water that is used in the Basin  
25 or a Great Lake watershed to manufacture or produce a

1 Product that is then transferred out of the Basin or water-  
2 shed. ‘Divert’ has a corresponding meaning.

3       “‘Environmentally Sound and Economically Feasible  
4 Water Conservation Measures’ means those measures,  
5 methods, technologies or practices for efficient water use  
6 and for reduction of water loss and waste or for reducing  
7 a Withdrawal, Consumptive Use or Diversion that i) are  
8 environmentally sound, ii) reflect best practices applicable  
9 to the water use sector, iii) are technically feasible and  
10 available, iv) are economically feasible and cost effective  
11 based on an analysis that considers direct and avoided eco-  
12 nomic and environmental costs and v) consider the par-  
13 ticular facilities and processes involved, taking into ac-  
14 count the environmental impact, age of equipment and fa-  
15 cilities involved, the processes employed, energy impacts  
16 and other appropriate factors.

17       “‘Exception’ means a transfer of Water that is ex-  
18 cepted under Section 4.9 from the prohibition against Di-  
19 versions in Section 4.8.

20       “‘Exception Standard’ means the standard for Ex-  
21 ceptions established in Section 4.9.4.

22       “‘Intra-Basin Transfer’ means the transfer of Water  
23 from the watershed of one of the Great Lakes into the  
24 watershed of another Great Lake.

1       “‘Measures’ means any legislation, law, regulation,  
2 directive, requirement, guideline, program, policy, admin-  
3 istrative practice or other procedure.

4       “‘New or Increased Diversion’ means a new Diver-  
5 sion, an increase in an existing Diversion, or the alteration  
6 of an existing Withdrawal so that it becomes a Diversion.

7       “‘New or Increased Withdrawal or Consumptive Use’  
8 means a new Withdrawal or Consumptive Use or an in-  
9 crease in an existing Withdrawal or Consumptive Use.

10       “‘Originating Party’ means the Party within whose  
11 jurisdiction an Application or registration is made or re-  
12 quired.

13       “‘Party’ means a State party to this Compact.

14       “‘Person’ means a human being or a legal person,  
15 including a government or a nongovernmental organiza-  
16 tion, including any scientific, professional, business, non-  
17 profit, or public interest organization or association that  
18 is neither affiliated with, nor under the direction of a gov-  
19 ernment.

20       “‘Product’ means something produced in the Basin  
21 by human or mechanical effort or through agricultural  
22 processes and used in manufacturing, commercial or other  
23 processes or intended for intermediate or end use con-  
24 sumers. (i) Water used as part of the packaging of a Prod-  
25 uct shall be considered to be part of the Product. (ii)

1 Other than Water used as part of the packaging of a Prod-  
2 uct, Water that is used primarily to transport materials  
3 in or out of the Basin is not a Product or part of a Prod-  
4 uct. (iii) Except as provided in (i) above, Water which is  
5 transferred as part of a public or private supply is not  
6 a Product or part of a Product. (iv) Water in its natural  
7 state such as in lakes, rivers, reservoirs, aquifers, or water  
8 basins is not a Product.

9 “‘Proposal’ means a Withdrawal, Diversion or Con-  
10 sumptive Use of Water that is subject to this Compact.

11 “‘Province’ means Ontario or Québec.

12 “‘Public Water Supply Purposes’ means water dis-  
13 tributed to the public through a physically connected sys-  
14 tem of treatment, storage and distribution facilities serv-  
15 ing a group of largely residential customers that may also  
16 serve industrial, commercial, and other institutional opera-  
17 tors. Water Withdrawn directly from the Basin and not  
18 through such a system shall not be considered to be used  
19 for Public Water Supply Purposes.

20 “‘Regional Body’ means the members of the Council  
21 and the Premiers of Ontario and Québec or their designee  
22 as established by the Agreement.

23 “‘Regional Review’ means the collective review by the  
24 Regional Body as described in Article 4 of this Compact.



1       “‘Source Watershed’ means the watershed from  
2 which a Withdrawal originates. If Water is Withdrawn di-  
3 rectly from a Great Lake or from the St. Lawrence River,  
4 then the Source Watershed shall be considered to be the  
5 watershed of that Great Lake or the watershed of the St.  
6 Lawrence River, respectively. If Water is Withdrawn from  
7 the watershed of a stream that is a direct tributary to  
8 a Great Lake or a direct tributary to the St. Lawrence  
9 River, then the Source Watershed shall be considered to  
10 be the watershed of that Great Lake or the watershed of  
11 the St. Lawrence River, respectively, with a preference to  
12 the direct tributary stream watershed from which it was  
13 Withdrawn.

14       “‘Standard of Review and Decision’ means the Ex-  
15 ception Standard, Decision-Making Standard and reviews  
16 as outlined in Article 4 of this Compact.

17       “‘State’ means one of the states of Illinois, Indiana,  
18 Michigan, Minnesota, New York, Ohio or Wisconsin or the  
19 Commonwealth of Pennsylvania.

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

1       “‘Technical Review’ means a detailed review con-  
2 ducted to determine whether or not a Proposal that re-  
3 quires Regional Review under this Compact meets the  
4 Standard of Review and Decision following procedures and  
5 guidelines as set out in this Compact.

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

8       “‘Water Dependent Natural Resources’ means the  
9 interacting components of land, Water and living orga-  
10 nisms affected by the Waters of the Basin.

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

15       “‘Withdrawal’ means the taking of water from sur-  
16 face water or groundwater. ‘Withdraw’ has a cor-  
17 responding meaning.

18 **“Section 1.3. Findings and Purposes.**

19       “‘The legislative bodies of the respective Parties here-  
20 by find and declare:

21               “1. Findings:

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

1           “b. The Waters of the Basin are inter-  
2 connected and part of a single hydrologic sys-  
3 tem;

4           “c. The Waters of the Basin can concu-  
5 rrently serve multiple uses. Such multiple uses  
6 include municipal, public, industrial, commer-  
7 cial, agriculture, mining, navigation, energy de-  
8 velopment and production, recreation, the sub-  
9 sistence, economic and cultural activities of na-  
10 tive peoples, Water quality maintenance, and  
11 the maintenance of fish and wildlife habitat and  
12 a balanced ecosystem. And, other purposes are  
13 encouraged, recognizing that such uses are  
14 interdependent and must be balanced;

15          “d. Future Diversions and Consumptive  
16 Uses of Basin Water resources have the poten-  
17 tial to significantly impact the environment,  
18 economy and welfare of the Great Lakes-St.  
19 Lawrence River region;

20          “e. Continued sustainable, accessible and  
21 adequate Water supplies for the people and  
22 economy of the Basin are of vital importance;  
23 and,

24          “f. The Parties have a shared duty to pro-  
25 tect, conserve, restore, improve and manage the

1 renewable but finite Waters of the Basin for the  
2 use, benefit and enjoyment of all their citizens,  
3 including generations yet to come. The most ef-  
4 fective means of protecting, conserving, restor-  
5 ing, improving and managing the Basin Waters  
6 is through the joint pursuit of unified and coop-  
7 erative principles, policies and programs mutu-  
8 ally-agreed upon, enacted and adhered to by all  
9 Parties.

10 “2. Purposes:

11 “a. To act together to protect, conserve, re-  
12 store, improve and effectively manage the Waters  
13 and Water Dependent Natural Resources of the  
14 Basin under appropriate arrangements for intergov-  
15 ernmental cooperation and consultation because cur-  
16 rent lack of full scientific certainty should not be  
17 used as a reason for postponing measures to protect  
18 the Basin Ecosystem;

19 “b. To remove causes of present and future  
20 controversies;

21 “c. To provide for cooperative planning and ac-  
22 tion by the Parties with respect to such Water re-  
23 sources;

24 “d. To facilitate consistent approaches to Water  
25 management across the Basin while retaining State

1 management authority over Water management de-  
2 cisions within the Basin;

3 “e. To facilitate the exchange of data, strength-  
4 en the scientific information base upon which deci-  
5 sions are made and engage in consultation on the  
6 potential effects of proposed Withdrawals and losses  
7 on the Waters and Water Dependent Natural Re-  
8 sources of the Basin;

9 “f. To prevent significant adverse impacts of  
10 Withdrawals and losses on the Basin’s ecosystems  
11 and watersheds;

12 “g. To promote interstate and State-Provincial  
13 comity; and,

14 “h. To promote an Adaptive Management ap-  
15 proach to the conservation and management of  
16 Basin Water resources, which recognizes, considers  
17 and provides adjustments for the uncertainties in,  
18 and evolution of, scientific knowledge concerning the  
19 Basin’s Waters and Water Dependent Natural Re-  
20 sources.

21 **“Section 1.4. Science.**

22 “1. The Parties commit to provide leadership for the  
23 development of a collaborative strategy with other regional  
24 partners to strengthen the scientific basis for sound Water  
25 management decision making under this Compact.

1       “2. The strategy shall guide the collection and appli-  
2 cation of scientific information to support:

3           “a. An improved understanding of the indi-  
4 vidual and Cumulative Impacts of Withdrawals from  
5 various locations and Water sources on the Basin  
6 Ecosystem and to develop a mechanism by which im-  
7 pacts of Withdrawals may be assessed;

8           “b. The periodic assessment of Cumulative Im-  
9 pacts of Withdrawals, Diversions and Consumptive  
10 Uses on a Great Lake and St. Lawrence River wa-  
11 tershed basis;

12          “c. Improved scientific understanding of the  
13 Waters of the Basin;

14          “d. Improved understanding of the role of  
15 groundwater in Basin Water resources management;  
16 and,

17          “e. The development, transfer and application  
18 of science and research related to Water conserva-  
19 tion and Water use efficiency.

20                                   **“ARTICLE 2**

21                                   **“ORGANIZATION**

22       **“Section 2.1. Council Created.**

23       “The Great Lakes-St. Lawrence River Basin Water  
24 Resources Council is hereby created as a body politic and  
25 corporate, with succession for the duration of this Com-

1 pact, as an agency and instrumentality of the governments  
2 of the respective Parties.

3 **“Section 2.2. Council Membership.**

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

6 **“Section 2.3. Alternates.**

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

18 **“Section 2.4. Voting.**

19 “1. Each member is entitled to one vote on all mat-  
20 ters that may come before the Council.

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

23 “3. The Council shall annually adopt a budget for  
24 each fiscal year and the amount required to balance the  
25 budget shall be apportioned equitably among the Parties

1 by unanimous vote of the Council. The appropriation of  
2 such amounts shall be subject to such review and approval  
3 as may be required by the budgetary processes of the re-  
4 spective Parties.

5 “4. The participation of Council members from a ma-  
6 jority of the Parties shall constitute a quorum for the  
7 transaction of business at any meeting of the Council.

8 **“Section 2.5. Organization and Procedure.**

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

22 **“Section 2.6. Use of Existing Offices and Agen-**  
23 **cies.**

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



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

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

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

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

12 **“Section 2.7. Jurisdiction.**

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

20 **“Section 2.8. Status, Immunities and Privi-**  
21 **leges.**

22           “1. The Council, its members and personnel in their  
23 official capacity and when engaged directly in the affairs  
24 of the Council, its property and its assets, wherever lo-  
25 cated and by whomsoever held, shall enjoy the same immu-

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

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

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

18 **“Section 2.9. Advisory Committees.**

19 “The Council may constitute and empower advisory  
20 committees, which may be comprised of representatives of  
21 the public and of federal, State, tribal, county and local  
22 governments, water resources agencies, water-using indus-  
23 tries and sectors, water-interest groups and academic ex-  
24 perts in related fields.

1                                   **“ARTICLE 3**  
2                                   **“GENERAL POWERS AND DUTIES**

3 **“Section 3.1. General.**

4           “The Waters and Water Dependent Natural Re-  
5 sources of the Basin are subject to the sovereign right and  
6 responsibilities of the Parties, and it is the purpose of this  
7 Compact to provide for joint exercise of such powers of  
8 sovereignty by the Council in the common interests of the  
9 people of the region, in the manner and to the extent pro-  
10 vided in this Compact. The Council and the Parties shall  
11 use the Standard of Review and Decision and procedures  
12 contained in or adopted pursuant to this Compact as the  
13 means to exercise their authority under this Compact. The  
14 Council may revise the Standard of Review and Decision,  
15 after consultation with the Provinces and upon unanimous  
16 vote of all Council members, by regulation duly adopted  
17 in accordance with Section 3.3 of this Compact and in ac-  
18 cordance with each Party’s respective statutory authorities  
19 and applicable procedures. The Council shall identify pri-  
20 orities and develop plans and policies relating to Basin  
21 Water resources. It shall adopt and promote uniform and  
22 coordinated policies for Water resources conservation and  
23 management in the Basin.

24 **“Section 3.2. Council Powers.**

1        “The Council may: plan; conduct research and col-  
2 lect, compile, analyze, interpret, report and disseminate  
3 data on Water resources and uses; forecast Water levels;  
4 conduct investigations; institute court actions; design, ac-  
5 quire, construct, reconstruct, own, operate, maintain, con-  
6 trol, sell and convey real and personal property and any  
7 interest therein as it may deem necessary, useful or con-  
8 venient to carry out the purposes of this Compact; make  
9 contracts; receive and accept such payments, appropria-  
10 tions, grants, gifts, loans, advances and other funds, prop-  
11 erties and services as may be transferred or made avail-  
12 able to it by any Party or by any other public or private  
13 agency, corporation or individual; and, exercise such other  
14 and different powers as may be delegated to it by this  
15 Compact or otherwise pursuant to law, and have and exer-  
16 cise all powers necessary or convenient to carry out its  
17 express powers or which may be reasonably implied there-  
18 from.

19 **“Section 3.3. Rules and Regulations.**

20        “1. The Council may promulgate and enforce such  
21 rules and regulations as may be necessary for the imple-  
22 mentation and enforcement of this Compact. The Council  
23 may adopt by regulation, after public notice and public  
24 hearing, reasonable Application fees with respect to those  
25 Proposals for Exceptions that are subject to Council re-

1 view under Section 4.9. Any rule or regulation of the  
2 Council, other than one which deals solely with the inter-  
3 nal management of the Council or its property, shall be  
4 adopted only after public notice and hearing.

5 “2. Each Party, in accordance with its respective  
6 statutory authorities and applicable procedures, may  
7 adopt and enforce rules and regulations to implement and  
8 enforce this Compact and the programs adopted by such  
9 Party to carry out the management programs con-  
10 templated by this Compact.

11 **“Section 3.4. Program Review and Findings.**

12 “1. Each Party shall submit a report to the Council  
13 and the Regional Body detailing its Water management  
14 and conservation and efficiency programs that implement  
15 this Compact. The report shall set out the manner in  
16 which Water Withdrawals are managed by sector, Water  
17 source, quantity or any other means, and how the provi-  
18 sions of the Standard of Review and Decision and con-  
19 servation and efficiency programs are implemented. The  
20 first report shall be provided by each Party one year from  
21 the effective date of this Compact and thereafter every 5  
22 years.

23 “2. The Council, in cooperation with the Provinces,  
24 shall review its Water management and conservation and  
25 efficiency programs and those of the Parties that are es-



1 resources inventory for the collection, interpretation, stor-  
2 age, retrieval exchange, and dissemination of information  
3 concerning the Water resources of the Party, including,  
4 but not limited to, information on the location, type, quan-  
5 tity, and use of those resources and the location, type, and  
6 quantity of Withdrawals, Diversions and Consumptive  
7 Uses. To the extent feasible, the Water resources inven-  
8 tory shall be developed in cooperation with local, State,  
9 federal, tribal and other private agencies and entities, as  
10 well as the Council. Each Party's agencies shall cooperate  
11 with that Party in the development and maintenance of  
12 the inventory.

13       “2. The Council shall assist each Party to develop  
14 a common base of data regarding the management of the  
15 Water Resources of the Basin and to establish systematic  
16 arrangements for the exchange of those data with other  
17 States and Provinces.

18       “3. To develop and maintain a compatible base of  
19 Water use information, within five years of the effective  
20 date of this Compact any Person who Withdraws Water  
21 in an amount of 100,000 gallons per day or greater aver-  
22 age in any 30-day period (including Consumptive Uses)  
23 from all sources, or Diverts Water of any amount, shall  
24 register the Withdrawal or Diversion by a date set by the  
25 Council unless the Person has previously registered in ac-

1 cordance with an existing State program. The Person shall  
2 register the Withdrawal or Diversion with the Originating  
3 Party using a form prescribed by the Originating Party  
4 that shall include, at a minimum and without limitation:  
5 the name and address of the registrant and date of reg-  
6 istration; the locations and sources of the Withdrawal or  
7 Diversion; the capacity of the Withdrawal or Diversion per  
8 day and the amount Withdrawn or Diverted from each  
9 source; the uses made of the Water; places of use and  
10 places of discharge; and, such other information as the  
11 Originating Party may require. All registrations shall in-  
12 clude an estimate of the volume of the Withdrawal or Di-  
13 version in terms of gallons per day average in any 30-  
14 day period.

15       “4. All registrants shall annually report the monthly  
16 volumes of the Withdrawal, Consumptive Use and Diver-  
17 sion in gallons to the Originating Party and any other in-  
18 formation requested by the Originating Party.

19       “5. Each Party shall annually report the information  
20 gathered pursuant to this Section to a Great Lakes-St.  
21 Lawrence River Water use data base repository and aggre-  
22 gated information shall be made publicly available, con-  
23 sistent with the confidentiality requirements in Section  
24 8.3.



1           “6. Information gathered by the Parties pursuant to  
2 this Section shall be used to improve the sources and ap-  
3 plications of scientific information regarding the Waters  
4 of the Basin and the impacts of the Withdrawals and Di-  
5 versions from various locations and Water sources on the  
6 Basin Ecosystem, and to better understand the role of  
7 groundwater in the Basin. The Council and the Parties  
8 shall coordinate the collection and application of scientific  
9 information to further develop a mechanism by which indi-  
10 vidual and Cumulative Impacts of Withdrawals, Consump-  
11 tive Uses and Diversions shall be assessed.

12 **“Section 4.2. Water Conservation and Effi-**  
13 **ciency Programs.**

14           “1. The Council commits to identify, in cooperation  
15 with the Provinces, Basin-wide Water conservation and ef-  
16 ficiency objectives to assist the Parties in developing their  
17 Water conservation and efficiency program. These objec-  
18 tives are based on the goals of:

19                   “a. Ensuring improvement of the Waters and  
20           Water Dependent Natural Resources;

21                   “b. Protecting and restoring the hydrologic and  
22           ecosystem integrity of the Basin;

23                   “c. Retaining the quantity of surface water and  
24           groundwater in the Basin;

1           “d. Ensuring sustainable use of Waters of the  
2 Basin; and,

3           “e. Promoting the efficiency of use and reduc-  
4 ing losses and waste of Water.

5           “2. Within two years of the effective date of this  
6 Compact, each Party shall develop its own Water con-  
7 servation and efficiency goals and objectives consistent  
8 with the Basin-wide goals and objectives, and shall develop  
9 and implement a Water conservation and efficiency pro-  
10 gram, either voluntary or mandatory, within its jurisdic-  
11 tion based on the Party’s goals and objectives. Each Party  
12 shall annually assess its programs in meeting the Party’s  
13 goals and objectives, report to the Council and the Re-  
14 gional Body and make this annual assessment available  
15 to the public.

16           “3. Beginning five years after the effective date of  
17 this Compact, and every five years thereafter, the Council,  
18 in cooperation with the Provinces, shall review and modify  
19 as appropriate the Basin-wide objectives, and the Parties  
20 shall have regard for any such modifications in imple-  
21 menting their programs. This assessment will be based on  
22 examining new technologies, new patterns of Water use,  
23 new resource demands and threats, and the Cumulative  
24 Impact assessment under Section 4.15.

1       “4. Within two years of the effective date of this  
2 Compact, the Parties commit to promote Environmentally  
3 Sound and Economically Feasible Water Conservation  
4 Measures such as:

5           “a. Measures that promote efficient use of  
6 Water;

7           “b. Identification and sharing of best manage-  
8 ment practices and state of the art conservation and  
9 efficiency technologies;

10          “c. Application of sound planning principles;

11          “d. Demand-side and supply-side Measures or  
12 incentives; and,

13          “e. Development, transfer and application of  
14 science and research.

15       “5. Each Party shall implement in accordance with  
16 paragraph 2 above a voluntary or mandatory Water con-  
17 servation program for all, including existing, Basin Water  
18 users. Conservation programs need to adjust to new de-  
19 mands and the potential impacts of cumulative effects and  
20 climate.

### 21 **“Section 4.3. Party Powers and Duties.**

22       “1. Each Party, within its jurisdiction, shall manage  
23 and regulate New or Increased Withdrawals, Consumptive  
24 Uses and Diversions, including Exceptions, in accordance  
25 with this Compact.

1       “2. Each Party shall require an Applicant to submit  
2 an Application in such manner and with such accom-  
3 panying information as the Party shall prescribe.

4       “3. No Party may approve a Proposal if the Party  
5 determines that the Proposal is inconsistent with this  
6 Compact or the Standard of Review and Decision or any  
7 implementing rules or regulations promulgated there-  
8 under. The Party may approve, approve with modifica-  
9 tions or disapprove any Proposal depending on the Pro-  
10 posal’s consistency with this Compact and the Standard  
11 of Review and Decision.

12       “4. Each Party shall monitor the implementation of  
13 any approved Proposal to ensure consistency with the ap-  
14 proval and may take all necessary enforcement actions.

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

1 **“Section 4.4. Requirement for Originating**  
2 **Party Approval.**

3 “No Proposal subject to management and regulation  
4 under this Compact shall hereafter be undertaken by any  
5 Person unless it shall have been approved by the Origin-  
6 nating Party.

7 **“Section 4.5. Regional Review.**

8 “1. General.

9 “a. It is the intention of the Parties to partici-  
10 pate in Regional Review of Proposals with the Prov-  
11 inces, as described in this Compact and the Agree-  
12 ment.

13 “b. Unless the Applicant or the Originating  
14 Party otherwise requests, it shall be the goal of the  
15 Regional Body to conclude its review no later than  
16 90 days after notice under Section 4.5.2 of such  
17 Proposal is received from the Originating Party.

18 “c. Proposals for Exceptions subject to Re-  
19 gional Review shall be submitted by the Originating  
20 Party to the Regional Body for Regional Review,  
21 and where applicable, to the Council for concurrent  
22 review.

23 “d. The Parties agree that the protection of the  
24 integrity of the Great Lakes-St. Lawrence River  
25 Basin Ecosystem shall be the overarching principle

1 for reviewing Proposals subject to Regional Review,  
2 recognizing uncertainties with respect to demands  
3 that may be placed on Basin Water, including  
4 groundwater, levels and flows of the Great Lakes  
5 and the St. Lawrence River, future changes in envi-  
6 ronmental conditions, the reliability of existing data  
7 and the extent to which Diversions may harm the in-  
8 tegrity of the Basin Ecosystem.

9 “e. The Originating Party shall have lead re-  
10 sponsibility for coordinating information for resolu-  
11 tion of issues related to evaluation of a Proposal,  
12 and shall consult with the Applicant throughout the  
13 Regional Review Process.

14 “f. A majority of the members of the Regional  
15 Body may request Regional Review of a regionally  
16 significant or potentially precedent setting Proposal.  
17 Such Regional Review must be conducted, to the ex-  
18 tent possible, within the time frames set forth in this  
19 Section. Any such Regional Review shall be under-  
20 taken only after consulting the Applicant.

21 “2. Notice from Originating Party to the Regional  
22 Body.

23 “a. The Originating Party shall determine if a  
24 Proposal is subject to Regional Review. If so, the

1       Originating Party shall provide timely notice to the  
2       Regional Body and the public.

3               “b. Such notice shall not be given unless and  
4       until all information, documents and the Originating  
5       Party’s Technical Review needed to evaluate whether  
6       the Proposal meets the Standard of Review and De-  
7       cision have been provided.

8               “c. An Originating Party may:

9                       “i. Provide notice to the Regional Body of  
10       an Application, even if notification is not re-  
11       quired; or,

12                      “ii. Request Regional Review of an applica-  
13       tion, even if Regional Review is not required.  
14       Any such Regional Review shall be undertaken  
15       only after consulting the Applicant.

16               “d. An Originating Party may provide prelimi-  
17       nary notice of a potential Proposal.

18       “3. Public Participation.

19               “a. To ensure adequate public participation, the  
20       Regional Body shall adopt procedures for the review  
21       of Proposals that are subject to Regional Review in  
22       accordance with this Article.

23               “b. The Regional Body shall provide notice to  
24       the public of a Proposal undergoing Regional Re-  
25       view. Such notice shall indicate that the public has

1 an opportunity to comment in writing to the Re-  
2 gional Body on whether the Proposal meets the  
3 Standard of Review and Decision.

4 “c. The Regional Body shall hold a public meet-  
5 ing in the State or Province of the Originating Party  
6 in order to receive public comment on the issue of  
7 whether the Proposal under consideration meets the  
8 Standard of Review and Decision.

9 “d. The Regional Body shall consider the com-  
10 ments received before issuing a Declaration of Find-  
11 ing.

12 “e. The Regional Body shall forward the com-  
13 ments it receives to the Originating Party.

14 “4. Technical Review.

15 “a. The Originating Party shall provide the Re-  
16 gional Body with its Technical Review of the Pro-  
17 posal under consideration.

18 “b. The Originating Party’s Technical Review  
19 shall thoroughly analyze the Proposal and provide an  
20 evaluation of the Proposal sufficient for a deter-  
21 mination of whether the Proposal meets the Stand-  
22 ard of Review and Decision.

23 “c. Any member of the Regional Body may con-  
24 duct their own Technical Review of any Proposal  
25 subject to Regional Review.



1           “d. At the request of the majority of its mem-  
2           bers, the Regional Body shall make such arrange-  
3           ments as it considers appropriate for an independent  
4           Technical Review of a Proposal.

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

14          “5. Declaration of Finding.

15                 “a. The Regional Body shall meet to consider  
16                 a Proposal. The Applicant shall be provided with an  
17                 opportunity to present the Proposal to the Regional  
18                 Body at such time.

19                 “b. The Regional Body, having considered the  
20                 notice, the Originating Party’s Technical Review,  
21                 any other independent Technical Review that is  
22                 made, any comments or objections including the  
23                 analysis of comments made by the public, First Na-  
24                 tions and federally recognized Tribes, and any other  
25                 information that is provided under this Compact

1 shall issue a Declaration of Finding that the Pro-  
2 posal under consideration:

3 “i. Meets the Standard of Review and De-  
4 cision;

5 “ii. Does not meet the Standard of Review  
6 and Decision; or,

7 “iii. Would meet the Standard of Review  
8 and Decision if certain conditions were met.

9 “c. An Originating Party may decline to partici-  
10 pate in a Declaration of Finding made by the Re-  
11 gional Body.

12 “d. The Parties recognize and affirm that it is  
13 preferable for all members of the Regional Body to  
14 agree whether the Proposal meets the Standard of  
15 Review and Decision.

16 “e. If the members of the Regional Body who  
17 participate in the Declaration of Finding all agree,  
18 they shall issue a written Declaration of Finding  
19 with consensus.

20 “f. In the event that the members cannot agree,  
21 the Regional Body shall make every reasonable ef-  
22 fort to achieve consensus within 25 days.

23 “g. Should consensus not be achieved, the Re-  
24 gional Body may issue a Declaration of Finding that

1 presents different points of view and indicates each  
2 Party's conclusions.

3 "h. The Regional Body shall release the Dec-  
4 larations of Finding to the public.

5 "i. The Originating Party and the Council shall  
6 consider the Declaration of Finding before making a  
7 decision on the Proposal.

8 **"Section 4.6. Proposals Subject to Prior No-**  
9 **tice.**

10 "1. Beginning no later than five years of the effective  
11 date of this Compact, the Originating Party shall provide  
12 all Parties and the Provinces with detailed and timely no-  
13 tice and an opportunity to comment within 90 days on  
14 any Proposal for a New or Increased Consumptive Use  
15 of 5 million gallons per day or greater average in any 90-  
16 day period. Comments shall address whether or not the  
17 Proposal is consistent with the Standard of Review and  
18 Decision. The Originating Party shall provide a response  
19 to any such comment received from another Party.

20 "2. A Party may provide notice, an opportunity to  
21 comment and a response to comments even if this is not  
22 required under paragraph 1 of this Section. Any provision  
23 of such notice and opportunity to comment shall be under-  
24 taken only after consulting the Applicant.

25 **"Section 4.7. Council Actions.**

1       “1. Proposals for Exceptions subject to Council Re-  
2 view shall be submitted by the Originating Party to the  
3 Council for Council Review, and where applicable, to the  
4 Regional Body for concurrent review.

5       “2. The Council shall review and take action on Pro-  
6 posals in accordance with this Compact and the Standard  
7 of Review and Decision. The Council shall not take action  
8 on a Proposal subject to Regional Review pursuant to this  
9 Compact unless the Proposal shall have been first sub-  
10 mitted to and reviewed by the Regional Body. The Council  
11 shall consider any findings resulting from such review.

12 **“Section 4.8. Prohibition of New or Increased**  
13 **Diversions.**

14       “All New or Increased Diversions are prohibited, ex-  
15 cept as provided for in this Article.

16 **“Section 4.9. Exceptions to the Prohibition of**  
17 **Diversions.**

18       “1. Straddling Communities. A Proposal to transfer  
19 Water to an area within a Straddling Community but out-  
20 side the Basin or outside the source Great Lake Water-  
21 shed shall be excepted from the prohibition against Diver-  
22 sions and be managed and regulated by the Originating  
23 Party provided that, regardless of the volume of Water  
24 transferred, all the Water so transferred shall be used

1 solely for Public Water Supply Purposes within the Strad-  
2 dling Community, and:

3           “a. All Water Withdrawn from the Basin shall  
4           be returned, either naturally or after use, to the  
5           Source Watershed less an allowance for Consumptive  
6           Use. No surface water or groundwater from outside  
7           the Basin may be used to satisfy any portion of this  
8           criterion except if it:

9                   “i. Is part of a water supply or wastewater  
10                  treatment system that combines water from in-  
11                  side and outside of the Basin;

12                  “ii. Is treated to meet applicable water  
13                  quality discharge standards and to prevent the  
14                  introduction of invasive species into the Basin;

15                  “iii. Maximizes the portion of water re-  
16                  turned to the Source Watershed as Basin  
17                  Water and minimizes the surface water or  
18                  groundwater from outside the Basin;

19           “b. If the Proposal results from a New or In-  
20           creased Withdrawal of 100,000 gallons per day or  
21           greater average over any 90-day period, the Proposal  
22           shall also meet the Exception Standard; and,

23           “c. If the Proposal results in a New or In-  
24           creased Consumptive Use of 5 million gallons per

1 day or greater average over any 90-day period, the  
2 Proposal shall also undergo Regional Review.

3 “2. Intra-Basin Transfer. A Proposal for an Intra-  
4 Basin Transfer that would be considered a Diversion  
5 under this Compact, and not already excepted pursuant  
6 to paragraph 1 of this Section, shall be excepted from the  
7 prohibition against Diversions, provided that:

8 “a. If the Proposal results from a New or In-  
9 creased Withdrawal less than 100,000 gallons per  
10 day average over any 90-day period, the Proposal  
11 shall be subject to management and regulation at  
12 the discretion of the Originating Party.

13 “b. If the Proposal results from a New or In-  
14 creased Withdrawal 100,000 gallons per day or  
15 greater average over any 90-day period and if the  
16 Consumptive Use resulting from the Withdrawal is  
17 less than 5 million gallons per day average over any  
18 90-day period:

19 “i. The Proposal shall meet the Exception  
20 Standard and be subject to management and  
21 regulation by the Originating Party, except that  
22 the Water may be returned to another Great  
23 Lake watershed rather than the Source Water-  
24 shed;

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

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

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

13                 “i. The Proposal shall be subject to man-  
14                 agement and regulation by the Originating  
15                 Party and shall meet the Exception Standard,  
16                 ensuring that Water Withdrawn shall be re-  
17                 turned to the Source Watershed;

18                 “ii. The Applicant shall demonstrate that  
19                 there is no feasible, cost effective, and environ-  
20                 mentally sound water supply alternative within  
21                 the Great Lake watershed to which the Water  
22                 will be transferred, including conservation of ex-  
23                 isting water supplies;

24                 “iii. The Proposal undergoes Regional Re-  
25                 view; and,

1           “iv. The Proposal is approved by the  
2           Council. Council approval shall be given unless  
3           one or more Council Members vote to dis-  
4           approve.

5           “3. Straddling Counties. A Proposal to transfer  
6 Water to a Community within a Straddling County that  
7 would be considered a Diversion under this Compact shall  
8 be excepted from the prohibition against Diversions, pro-  
9 vided that it satisfies all of the following conditions:

10           “a. The Water shall be used solely for the Pub-  
11 lic Water Supply Purposes of the Community within  
12 a Straddling County that is without adequate sup-  
13 plies of potable water;

14           “b. The Proposal meets the Exception Stand-  
15 ard, maximizing the portion of water returned to the  
16 Source Watershed as Basin Water and minimizing  
17 the surface water or groundwater from outside the  
18 Basin;

19           “c. The Proposal shall be subject to manage-  
20 ment and regulation by the Originating Party, re-  
21 gardless of its size;

22           “d. There is no reasonable water supply alter-  
23 native within the basin in which the community is  
24 located, including conservation of existing water sup-  
25 plies;



1           “e. Caution shall be used in determining wheth-  
2           er or not the Proposal meets the conditions for this  
3           Exception. This Exception should not be authorized  
4           unless it can be shown that it will not endanger the  
5           integrity of the Basin Ecosystem;

6           “f. The Proposal undergoes Regional Review;  
7           and,

8           “g. The Proposal is approved by the Council.  
9           Council approval shall be given unless one or more  
10          Council Members vote to disapprove.

11 A Proposal must satisfy all of the conditions listed above.  
12 Further, substantive consideration will also be given to  
13 whether or not the Proposal can provide sufficient scientif-  
14 ically based evidence that the existing water supply is de-  
15 rived from groundwater that is hydrologically inter-  
16 connected to Waters of the Basin.

17          “4. Exception Standard. Proposals subject to man-  
18 agement and regulation in this Section shall be declared  
19 to meet this Exception Standard and may be approved as  
20 appropriate only when the following criteria are met:

21           “a. The need for all or part of the proposed Ex-  
22 ception cannot be reasonably avoided through the ef-  
23 ficient use and conservation of existing water sup-  
24 plies;

1           “b. The Exception will be limited to quantities  
2 that are considered reasonable for the purposes for  
3 which it is proposed;

4           “c. All Water Withdrawn shall be returned, ei-  
5 ther naturally or after use, to the Source Watershed  
6 less an allowance for Consumptive Use. No surface  
7 water or groundwater from the outside the Basin  
8 may be used to satisfy any portion of this criterion  
9 except if it:

10           “i. Is part of a water supply or wastewater  
11 treatment system that combines water from in-  
12 side and outside of the Basin;

13           “ii. Is treated to meet applicable water  
14 quality discharge standards and to prevent the  
15 introduction of invasive species into the Basin;

16           “d. The Exception will be implemented so as to  
17 ensure that it will result in no significant individual  
18 or cumulative adverse impacts to the quantity or  
19 quality of the Waters and Water Dependent Natural  
20 Resources of the Basin with consideration given to  
21 the potential Cumulative Impacts of any precedent-  
22 setting consequences associated with the Proposal;

23           “e. The Exception will be implemented so as to  
24 incorporate Environmentally Sound and Economi-

1 cally Feasible Water Conservation Measures to mini-  
2 mize Water Withdrawals or Consumptive Use;

3 “f. The Exception will be implemented so as to  
4 ensure that it is in compliance with all applicable  
5 municipal, State and federal laws as well as regional  
6 interstate and international agreements, including  
7 the Boundary Waters Treaty of 1909; and,

8 “g. All other applicable criteria in Section 4.9  
9 have also been met.

10 **“Section 4.10. Management and Regulation of**  
11 **New or Increased Withdrawals and Consump-**  
12 **tive Uses.**

13 “1. Within five years of the effective date of this  
14 Compact, each Party shall create a program for the man-  
15 agement and regulation of New or Increased Withdrawals  
16 and Consumptive Uses by adopting and implementing  
17 Measures consistent with the Decision-Making Standard.  
18 Each Party, through a considered process, shall set and  
19 may modify threshold levels for the regulation of New or  
20 Increased Withdrawals in order to assure an effective and  
21 efficient Water management program that will ensure that  
22 uses overall are reasonable, that Withdrawals overall will  
23 not result in significant impacts to the Waters and Water  
24 Dependent Natural Resources of the Basin, determined on  
25 the basis of significant impacts to the physical, chemical,

1 and biological integrity of Source Watersheds, and that  
2 all other objectives of the Compact are achieved. Each  
3 Party may determine the scope and thresholds of its pro-  
4 gram, including which New or Increased Withdrawals and  
5 Consumptive Uses will be subject to the program.

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

12 “3. The Parties intend programs for New or In-  
13 creased Withdrawals and Consumptive Uses to evolve as  
14 may be necessary to protect Basin Waters. Pursuant to  
15 Section 3.4, the Council, in cooperation with the Prov-  
16 inces, shall periodically assess the Water management pro-  
17 grams of the Parties. Such assessments may produce rec-  
18 ommendations for the strengthening of the programs, in-  
19 cluding without limitation, establishing lower thresholds  
20 for management and regulation in accordance with the  
21 Decision-Making Standard.

22 **“Section 4.11. Decision-Making Standard.**

23 “Proposals subject to management and regulation in  
24 Section 4.10 shall be declared to meet this Decision-Mak-

1 ing Standard and may be approved as appropriate only  
2 when the following criteria are met:

3           “1. All Water Withdrawn shall be returned, ei-  
4 ther naturally or after use, to the Source Watershed  
5 less an allowance for Consumptive Use;

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

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

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

22           “5. The proposed use is reasonable, based upon  
23 a consideration of the following factors:

24                   “a. Whether the proposed Withdrawal or  
25 Consumptive Use is planned in a fashion that

1 provides for efficient use of the water, and will  
2 avoid or minimize the waste of Water;

3 “b. If the Proposal is for an increased  
4 Withdrawal or Consumptive use, whether effi-  
5 cient use is made of existing water supplies;

6 “c. The balance between economic develop-  
7 ment, social development and environmental  
8 protection of the proposed Withdrawal and use  
9 and other existing or planned withdrawals and  
10 water uses sharing the water source;

11 “d. The supply potential of the water  
12 source, considering quantity, quality, and reli-  
13 ability and safe yield of hydrologically inter-  
14 connected water sources;

15 “e. The probable degree and duration of  
16 any adverse impacts caused or expected to be  
17 caused by the proposed Withdrawal and use  
18 under foreseeable conditions, to other lawful  
19 consumptive or non-consumptive uses of water  
20 or to the quantity or quality of the Waters and  
21 Water Dependent Natural Resources of the  
22 Basin, and the proposed plans and arrange-  
23 ments for avoidance or mitigation of such im-  
24 pacts; and,

1           “f. If a Proposal includes restoration of  
2           hydrologic conditions and functions of the  
3           Source Watershed, the Party may consider  
4           that.

5   **“Section 4.12. Applicability.**

6           “1. Minimum Standard. This Standard of Review  
7           and Decision shall be used as a minimum standard. Par-  
8           ties may impose a more restrictive decision-making stand-  
9           ard for Withdrawals under their authority. It is also ac-  
10          nowledged that although a Proposal meets the Standard  
11          of Review and Decision it may not be approved under the  
12          laws of the Originating Party that has implemented more  
13          restrictive Measures.

14          “2. Baseline.

15                 “a. To establish a baseline for determining a  
16                 New or Increased Diversion, Consumptive Use or  
17                 Withdrawal, each Party shall develop either or both  
18                 of the following lists for their jurisdiction:

19                         “i. A list of existing Withdrawal approvals  
20                         as of the effective date of the Compact;

21                         “ii. A list of the capacity of existing sys-  
22                         tems as of the effective date of this Compact.  
23                         The capacity of the existing systems should be  
24                         presented in terms of Withdrawal capacity,  
25                         treatment capacity, distribution capacity, or

1 other capacity limiting factors. The capacity of  
2 the existing systems must represent the state of  
3 the systems. Existing capacity determinations  
4 shall be based upon approval limits or the most  
5 restrictive capacity information.

6 “b. For all purposes of this Compact, volumes  
7 of Diversions, Consumptive Uses, or Withdrawals of  
8 Water set forth in the list(s) prepared by each Party  
9 in accordance with this Section, shall constitute the  
10 baseline volume.

11 “c. The list(s) shall be furnished to the Re-  
12 gional Body and the Council within one year of the  
13 effective date of this Compact.

14 “3. Timing of Additional Applications. Applications  
15 for New or Increased Withdrawals, Consumptive Uses or  
16 Exceptions shall be considered cumulatively within ten  
17 years of any application.

18 “4. Change of Ownership. Unless a new owner pro-  
19 poses a project that shall result in a Proposal for a New  
20 or Increased Diversion or Consumptive Use subject to Re-  
21 gional Review or Council approval, the change of owner-  
22 ship in and of itself shall not require Regional Review or  
23 Council approval.

24 “5. Groundwater. The Basin surface water divide  
25 shall be used for the purpose of managing and regulating



1 New or Increased Diversions, Consumptive Uses or With-  
2 draws of surface water and groundwater.

3 “6. Withdrawal Systems. The total volume of surface  
4 water and groundwater resources that supply a common  
5 distribution system shall determine the volume of a With-  
6 drawal, Consumptive Use or Diversion.

7 “7. Connecting Channels. The watershed of each  
8 Great Lake shall include its upstream and downstream  
9 connecting channels.

10 “8. Transmission in Water Lines. Transmission of  
11 Water within a line that extends outside the Basin as it  
12 conveys Water from one point to another within the Basin  
13 shall not be considered a Diversion if none of the Water  
14 is used outside the Basin.

15 “9. Hydrologic Units. The Lake Michigan and Lake  
16 Huron watersheds shall be considered to be a single hydro-  
17 logic unit and watershed.

18 “10. Bulk Water Transfer. A Proposal to Withdraw  
19 Water and to remove it from the Basin in any container  
20 greater than 5.7 gallons shall be treated under this Com-  
21 pact in the same manner as a Proposal for a Diversion.  
22 Each Party shall have the discretion, within its jurisdic-  
23 tion, to determine the treatment of Proposals to Withdraw  
24 Water and to remove it from the Basin in any container  
25 of 5.7 gallons or less.

1 **“Section 4.13. Exemptions.**

2 “Withdrawals from the Basin for the following pur-  
3 poses are exempt from the requirements of Article 4.

4 “1. To supply vehicles, including vessels and  
5 aircraft, whether for the needs of the persons or ani-  
6 mals being transported or for ballast or other needs  
7 related to the operation of the vehicles.

8 “2. To use in a non-commercial project on a  
9 short-term basis for firefighting, humanitarian, or  
10 emergency response purposes.

11 **“Section 4.14. U.S. Supreme Court Decree:**  
12 ***Wisconsin et al. v. Illinois et al.***

13 “1. Notwithstanding any terms of this Compact to  
14 the contrary, with the exception of Paragraph 5 of this  
15 Section, current, New or Increased Withdrawals, Con-  
16 sumptive Uses and Diversions of Basin Water by the State  
17 of Illinois shall be governed by the terms of the United  
18 States Supreme Court decree in *Wisconsin et al. v. Illinois*  
19 *et al.* and shall not be subject to the terms of this Compact  
20 nor any rules or regulations promulgated pursuant to this  
21 Compact. This means that, with the exception of Para-  
22 graph 5 of this Section, for purposes of this Compact, cur-  
23 rent, New or Increased Withdrawals, Consumptive Uses  
24 and Diversions of Basin Water within the State of Illinois  
25 shall be allowed unless prohibited by the terms of the

1 United States Supreme Court decree in *Wisconsin et al.*  
2 v. *Illinois et al.*

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

1           “3. With the exception of Paragraph 5 of this Sec-  
2 tion, because current, New or Increased Withdrawals,  
3 Consumptive Uses and Diversions of Basin Water by the  
4 State of Illinois are not subject to the terms of this Com-  
5 pact, the State of Illinois is prohibited from using any  
6 term of this Compact, including Section 4.9, to seek New  
7 or Increased Withdrawals, Consumptive Uses or Diver-  
8 sions of Basin Water.

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

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

1           “6. For purposes of the State of Illinois’ participation  
2 in this Compact, the entirety of this Section 4.14 is nec-  
3 essary for the continued implementation of this Compact  
4 and, if severed, this Compact shall no longer be binding  
5 on or enforceable by or against the State of Illinois.

6 **“Section 4.15. Assessment of Cumulative Im-**  
7 **pacts.**

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

21           “a. Utilize the most current and appropriate  
22 guidelines for such a review, which may include but  
23 not be limited to Council on Environmental Quality  
24 and Environment Canada guidelines;

1           “b. Give substantive consideration to climate  
2           change or other significant threats to Basin Waters  
3           and take into account the current state of scientific  
4           knowledge, or uncertainty, and appropriate Meas-  
5           ures to exercise caution in cases of uncertainty if se-  
6           rious damage may result;

7           “c. Consider adaptive management principles  
8           and approaches, recognizing, considering and pro-  
9           viding adjustments for the uncertainties in, and evo-  
10          lution of science concerning the Basin’s water re-  
11          sources, watersheds and ecosystems, including poten-  
12          tial changes to Basin-wide processes, such as lake  
13          level cycles and climate.

14          “2. The Parties have the responsibility of conducting  
15          this Cumulative Impact assessment. Applicants are not re-  
16          quired to participate in this assessment.

17          “3. Unless required by other statutes, Applicants are  
18          not required to conduct a separate cumulative impact as-  
19          sessment in connection with an Application but shall sub-  
20          mit information about the potential impacts of a Proposal  
21          to the quantity or quality of the Waters and Water De-  
22          pendent Natural Resources of the applicable Source Wa-  
23          tershed. An Applicant may, however, provide an analysis  
24          of how their Proposal meets the no significant adverse Cu-

1 cumulative Impact provision of the Standard of Review and  
2 Decision.

3 **“ARTICLE 5**  
4 **“TRIBAL CONSULTATION**

5 **“Section 5.1. Consultation with Tribes.**

6 “1. In addition to all other opportunities to comment  
7 pursuant to Section 6.2, appropriate consultations shall  
8 occur with federally recognized Tribes in the Originating  
9 Party for all Proposals subject to Council or Regional Re-  
10 view pursuant to this Compact. Such consultations shall  
11 be organized in the manner suitable to the individual Pro-  
12 posal and the laws and policies of the Originating Party.

13 “2. All federally recognized Tribes within the Basin  
14 shall receive reasonable notice indicating that they have  
15 an opportunity to comment in writing to the Council or  
16 the Regional Body, or both, and other relevant organiza-  
17 tions on whether the Proposal meets the requirements of  
18 the Standard of Review and Decision when a Proposal is  
19 subject to Regional Review or Council approval. Any no-  
20 tice from the Council shall inform the Tribes of any meet-  
21 ing or hearing that is to be held under Section 6.2 and  
22 invite them to attend. The Parties and the Council shall  
23 consider the comments received under this Section before  
24 approving, approving with modifications or disapproving  
25 any Proposal subject to Council or Regional Review.

1       “3. In addition to the specific consultation mecha-  
2 nisms described above, the Council shall seek to establish  
3 mutually-agreed upon mechanisms or processes to facili-  
4 tate dialogue with, and input from federally recognized  
5 Tribes on matters to be dealt with by the Council; and,  
6 the Council shall seek to establish mechanisms and proc-  
7 esses with federally recognized Tribes designed to facili-  
8 tate on-going scientific and technical interaction and data  
9 exchange regarding matters falling within the scope of this  
10 Compact. This may include participation of tribal rep-  
11 resentatives on advisory committees established under this  
12 Compact or such other processes that are mutually-agreed  
13 upon with federally recognized Tribes individually or  
14 through duly-authorized intertribal agencies or bodies.

## 15                                   **“ARTICLE 6**

### 16                                   **“PUBLIC PARTICIPATION**

#### 17 **“Section 6.1. Meetings, Public Hearings and** 18 **Records.**

19       “1. The Parties recognize the importance and neces-  
20 sity of public participation in promoting management of  
21 the Water Resources of the Basin. Consequently, all meet-  
22 ings of the Council shall be open to the public, except with  
23 respect to issues of personnel.



1       “2. The minutes of the Council shall be a public  
2 record open to inspection at its offices during regular busi-  
3 ness hours.

4 **“Section 6.2. Public Participation.**

5       “It is the intent of the Council to conduct public par-  
6 ticipation processes concurrently and jointly with proc-  
7 esses undertaken by the Parties and through Regional Re-  
8 view. To ensure adequate public participation, each Party  
9 or the Council shall ensure procedures for the review of  
10 Proposals subject to the Standard of Review and Decision  
11 consistent with the following requirements:

12           “1. Provide public notification of receipt of all  
13 Applications and a reasonable opportunity for the  
14 public to submit comments before Applications are  
15 acted upon.

16           “2. Assure public accessibility to all documents  
17 relevant to an Application, including public comment  
18 received.

19           “3. Provide guidance on standards for deter-  
20 mining whether to conduct a public meeting or hear-  
21 ing for an Application, time and place of such a  
22 meeting(s) or hearing(s), and procedures for con-  
23 ducting of the same.

24           “4. Provide the record of decision for public in-  
25 spection including comments, objections, responses

1 and approvals, approvals with conditions and dis-  
2 approvals.

3 **“ARTICLE 7**  
4 **“DISPUTE RESOLUTION AND**  
5 **ENFORCEMENT**

6 **“Section 7.1. Good Faith Implementation.**

7 “Each of the Parties pledges to support implementa-  
8 tion of all provisions of this Compact, and covenants that  
9 its officers and agencies shall not hinder, impair, or pre-  
10 vent any other Party carrying out any provision of this  
11 Compact.

12 **“Section 7.2. Alternative Dispute Resolution.**

13 “1. Desiring that this Compact be carried out in full,  
14 the Parties agree that disputes between the Parties re-  
15 garding interpretation, application and implementation of  
16 this Compact shall be settled by alternative dispute resolu-  
17 tion.

18 “2. The Council, in consultation with the Provinces,  
19 shall provide by rule procedures for the resolution of dis-  
20 putes pursuant to this section.

21 **“Section 7.3. Enforcement.**

22 “1. Any Person aggrieved by any action taken by the  
23 Council pursuant to the authorities contained in this Com-  
24 pact shall be entitled to a hearing before the Council. Any  
25 Person aggrieved by a Party action shall be entitled to

1 a hearing pursuant to the relevant Party’s administrative  
2 procedures and laws. After exhaustion of such administra-  
3 tive remedies, (i) any aggrieved Person shall have the right  
4 to judicial review of a Council action in the United States  
5 District Courts for the District of Columbia or the District  
6 Court in which the Council maintains offices, provided  
7 such action is commenced within 90 days; and, (ii) any  
8 aggrieved Person shall have the right to judicial review  
9 of a Party’s action in the relevant Party’s court of com-  
10 petent jurisdiction, provided that an action or proceeding  
11 for such review is commenced within the time frames pro-  
12 vided for by the Party’s law. For the purposes of this  
13 paragraph, a State or Province is deemed to be an ag-  
14 grieved Person with respect to any Party action pursuant  
15 to this Compact.

16 “2. a. Any Party or the Council may initiate actions  
17 to compel compliance with the provisions of this Compact,  
18 and the rules and regulations promulgated hereunder by  
19 the Council. Jurisdiction over such actions is granted to  
20 the court of the relevant Party, as well as the United  
21 States District Courts for the District of Columbia and  
22 the District Court in which the Council maintains offices.  
23 The remedies available to any such court shall include, but  
24 not be limited to, equitable relief and civil penalties.

1           “b. Each Party may issue orders within its respective  
2 jurisdiction and may initiate actions to compel compliance  
3 with the provisions of its respective statutes and regula-  
4 tions adopted to implement the authorities contemplated  
5 by this Compact in accordance with the provisions of the  
6 laws adopted in each Party’s jurisdiction.

7           “3. Any aggrieved Person, Party or the Council may  
8 commence a civil action in the relevant Party’s courts and  
9 administrative systems to compel any Person to comply  
10 with this Compact should any such Person, without ap-  
11 proval having been given, undertake a New or Increased  
12 Withdrawal, Consumptive Use or Diversion that is prohib-  
13 ited or subject to approval pursuant to this Compact.

14           “a. No action under this subsection may be  
15 commenced if:

16                   “i. The Originating Party or Council ap-  
17 proval for the New or Increased Withdrawal,  
18 Consumptive Use or Diversion has been grant-  
19 ed; or,

20                   “ii. The Originating Party or Council has  
21 found that the New or Increased Withdrawal,  
22 Consumptive Use or Diversion is not subject to  
23 approval pursuant to this Compact.

24           “b. No action under this subsection may be  
25 commenced unless:



1 under State or federal law governing the Withdrawal of  
2 Waters of the Basin.

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

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

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

21 **“Section 8.2. Relationship to Agreements Con-**  
22 **cluded by the United States of America.**

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

1 or international agreement nor is it intended to derogate  
2 any right, claim, or remedy that already exists under any  
3 treaty or international agreement.

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

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

14 **“Section 8.3. Confidentiality.**

15 “1. Nothing in this Compact requires a Party to  
16 breach confidentiality obligations or requirements prohib-  
17 iting disclosure, or to compromise security of commercially  
18 sensitive or proprietary information.

19 “2. A Party may take measures, including but not  
20 limited to deletion and redaction, deemed necessary to pro-  
21 tect any confidential, proprietary or commercially sensitive  
22 information when distributing information to other Par-  
23 ties. The Party shall summarize or paraphrase any such  
24 information in a manner sufficient for the Council to exer-  
25 cise its authorities contained in this Compact.

1 **“Section 8.4. Additional Laws.**

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

7 **“Section 8.5. Amendments and Supplements.**

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

13 **“Section 8.6. Severability.**

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

21 **“Section 8.7. Duration of Compact and Termi-  
22 nation.**

23 “Once effective, the Compact shall continue in force  
24 and remain binding upon each and every Party unless ter-  
25 minated.





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

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

23 **SEC. 2. RIGHT TO ALTER, AMEND, OR APPEAL.**

24       Congress expressly reserves the right to alter, amend,  
25 or repeal this Act.



Union Calendar No. 560

110<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 6577**

[Report No. 110-863]

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## **A BILL**

To express the consent and approval of Congress to an interstate compact regarding water resources in the Great Lakes-St. Lawrence River Basin.

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SEPTEMBER 22, 2008

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed