



## **Living with the Great Lakes – St. Lawrence Water Resources Compact:**

### ***Assuring continued industry access to Great Lakes Basin water withdrawals***

Following what has been a ten year process, the Great Lakes-St. Lawrence Water Resources Compact (Compact) has been approved by Congress and was signed by the President on October 3. It will become law with an effective date of 8 December 2008 as stipulated by legislative procedures in the State of Ohio. Each Great Lakes State must then adopt and implement water resource management provisions consistent with the Compact over the next ten years.

This important action by the States and Congress for managing Great Lakes Basin water resources provides important assurances of water supply for users in the Basin, including industry. However, the ease with which these supplies will be made available will depend on the complexities of State implementation processes that will follow.

The Compact, and its bi-national, identically worded, companion document, the Great Lakes – St. Lawrence Water Resources Agreement (Agreement), prescribe water management policies and procedures to be followed by each of the Great Lakes States and Provinces.<sup>1</sup> The provisions include:

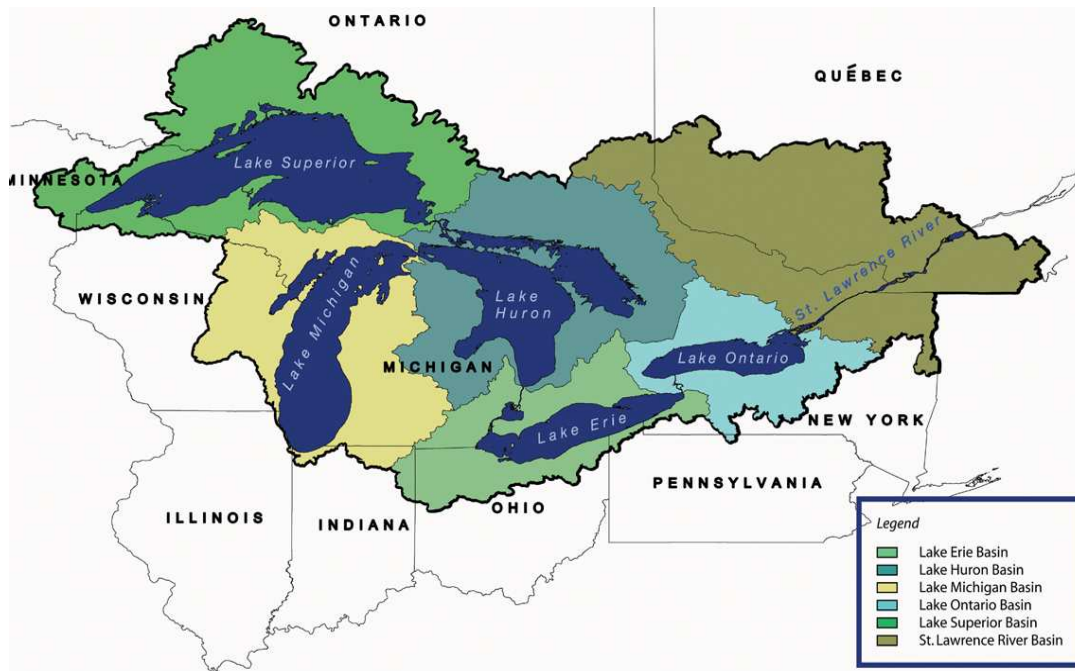
- The maintenance of riparian rights principles as opposed to western water law in administering Great Lakes water use.
- The prohibition of diversions of water out of the Great Lakes – St. Lawrence River Basin.
- Establishment of a uniform minimum water management standard that the States/Provinces must use to pursue Compact/Agreement goals and objectives. It is to be applied to both surface water and groundwater.
- Flexibility to give Individual States/Provinces the ability to set critical criteria for implementing Compact/Agreement provisions (such as threshold values above which withdrawal permits are required, baselines for determining increases in withdrawals, water use reporting methods, water conservation program details, etc), provided they act within prescribed time constraints. Should a State fail to do so, Compact default standards will apply.
- Registration of all existing water withdrawals within the Basin.

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<sup>1</sup> While lacking the status of a treaty, the Agreement is a good faith document signed by the Governors and Premiers from each of the Great Lakes States and Provinces and is expected to be honored as has long been the tradition of the jurisdictions within the Region.

- Reporting requirements regarding amounts of water withdrawn, returned, and consumed.
- New permitting processes for all new or increased withdrawals, above threshold levels to be set by each State/Province.
- Mandates to States and Provinces to adopt and implement water conservation initiatives and programs, subject to periodic regional review of overall effectiveness.

In the U.S., the Compact is, in effect, both a mutually adopted statute and a contract among the eight Great Lakes States that sets forth the policy direction and minimum standards under which each State must administer programs to manage water withdrawals from the Great Lakes watershed. Disputes between States or parties with standing regarding a State's administration of the terms of the Compact will be handled within the U.S. Federal court system, not State courts. The provisions of the Compact/Agreement apply to the watershed of the Great Lakes and the St. Lawrence River upstream from Trois-Rivieres, Quebec. Waters of the Great Lakes Basin are defined to be "all streams, rivers, lakes, connecting channels and other bodies of water, including tributary groundwater, within the Great Lakes Basin."



Industry will want to track closely the implementation of the Compact by the States and take part whenever possible in public participation and stakeholder opportunities.

## I. BACKGROUND:

The driving force behind development of the Compact/Agreement has been the desire by all parties within the Basin to ensure that Great Lakes water management authority and responsibility reside within the Great Lakes Basin governmental jurisdictions. In the absence of State action, water management could be taken up at the Federal level, given the international boundary water status of the Basin waters. However, because of constraints imposed by the "commerce clause" of the U.S. Constitution, States had been

hindered from restricting out-of-basin transfers of water in the absence of Congressional assent. In the U.S., Congress delegated authority over exports and transfers of water to the Great Lakes Governors in the mid-1980s through provisions contained in the Water Resources Development Act. WRDA 1986 stated that diversions of Great Lakes water out of the Basin could not occur unless all eight Great Lakes State Governors agreed.

However, the Governors were concerned: 1. that they may lose WRDA authority given a changing complexion of Congress and growing water needs in other parts of the country; and, 2. there was an absence of an objective methodology – now provided by the Compact – by which a Governor could exercise the veto authority granted under WRDA, section 1109. Canadians had additional concerns stemming from their water surplus situation (Canada diverts water into Lake Superior) and the possibility of water being “squandered” by U.S. interests.

The triggering event to revise existing water governance structure was public reaction to a 1998 proposal to ship water, via tanker, from Lake Superior to Asia. The Province of Ontario approved – and then, due to public pressure, rescinded – a permit to the Nova Group in Sault Saint Marie, Ontario for the project. Follow-up studies of the potential for bulk removals of water from the Great Lakes Basin by the International Joint Commission (IJC) and the Great Lakes Protection Fund identified legal issues that were deemed necessary to address, in both the U.S. and Canada, if Great Lakes water diversions were to be prohibited.

In 1985 the Great Lakes Governors and Premiers put into place a Great Lakes Charter, which delineated common water management objectives for the Region. An Annex to this charter was drafted in 2001 to add the commitment to work towards strengthened objectives that would address diversion concerns. Annex 2001 called for the development of “binding agreements” to “protect, preserve, restore and improve the Great Lakes for the use and benefit of its citizens.” The Compact – legally binding among the eight Great Lakes States - and the non-binding but good faith Agreement – among the two Canadian Provinces and these States - resulted from this commitment.

A Governors/Premiers Working Group, made up of Great Lakes State and Provincial water resource managers along with representatives of the Governors and Premiers themselves, conducted protracted drafting sessions between mid-2001 and December of 2005. Working Group activities were supported by the Council of Great Lakes Governors. The numerous drafts produced included Compact/Agreement provisions of variable scope and complexity. An Advisory Panel, consisting of two dozen stakeholders, including industry, provided comments and reactions that resulted in the removal of some of the most problematic provisions. A primary objective of the Advisory Panel effort was to see that as much authority as possible was placed in the hands of the individual State and Provincial jurisdictions.

The working group also conducted public hearings throughout the Basin. The final Agreement was signed by the Governors and Premiers in December 2005 and became immediately effective. The Compact draft, approved by the Governors at the same time was sent to each Great Lakes State legislature for adoption. Minnesota and Illinois signed-on early. The remaining States have ratified the document during the past three years, a process completed when Governor Granholm signed Michigan’s legislation on 9 July 2008.

It was mandatory for each State to pass the exact same Compact language prior to the required Congressional approval. Congress had the authority to ask for changes and send the Compact back to the States for modifications but this did not occur. Some States considered language changes that would address various concerns, but ultimately, all accepted the final Compact language. Several States dealt with concerns such as reservation of existing water rights, existing withdrawal baselines, and permit requirement threshold levels, via approval and/or implementing legislation. Others may have to modify their existing laws in order to comply with the terms of the Compact.

**Remaining Compact policy issues**

The opportunity to address any remaining concerns with the Compact itself will vary from State to State as some have already modified their existing laws to conform to the Compact’s provisions, while others still need to do so. A summary of the status of State by State implementation actions appears in Table 1, below. States must fully implement Compact provisions within 10 years of final approval. (See implementing schedule, Table II, p. 10). State regulatory agencies will be responsible for putting new procedures in place via their individual administrative procedure processes.

**Table I  
State Implementation Legislation Status**

State	Status
Illinois	Need for legislation unclear – relying on existing diversion authorization and Supreme Court ruling
Indiana	Legislation passed
Michigan	Legislation needed
Minnesota	No legislation needed – relying on existing program authorization
New York	Legislation needed
Ohio	Legislation needed
Pennsylvania	Basic implementing legislation adopted with Compact - regulations needed to fully implement
Wisconsin	Legislation passed

**II. WHAT THE COMPACT ACCOMPLISHES:**

**Access**

The Compact creates some certainty for access to Basin fresh water resources for industry’s responsible use.

**Control remains with the States**

Pressure to create a bi-national control body not tied or related to Great Lakes Basin jurisdictions for control over the resource has been successfully averted. The Compact

and Agreement designate existing in-basin elected bodies as policy and decision makers provided the States/Provinces take actions compliant with Compact/Agreement standards.

### **Minimum uniform water management standard requirements**

The Compact/Agreement describes, in detail, the rigorous comprehensive water management standard that is to be implemented by the States and Provinces. Through individual regulatory processes, each State/Province must:

- Develop and maintain a water resources inventory regarding the sources of water available within the State or Province.
- Develop and maintain a registration list of all existing water withdrawals within the State or Province that equals or exceeds 100,000 gallons per day (30 day average) and diversions of any amount. This list (which can be based on either withdrawal rates, system capacity, or both) will be used as a base line to determine new withdrawals.
- Require annual reporting of water withdrawals by each registrant – including the amounts of water used consumptively or diverted.
- Develop water conservation and efficiency goals and objectives consistent with those contained in the Basin-wide goals and objectives established under the Compact/Agreement.
- Commit to promote environmentally sound and economically feasible water conservation measure by all users.
- Create a program for the management of new and increased water withdrawals and consumptive uses.
- Set threshold levels for the regulation of new and increased water withdrawals; and, through these regulations:
  - Require applications for all new or increased withdrawal proposals.
  - Make the determination that each application for a new or increased withdrawal is consistent with the Standard of Review and Decision prescribed by the Compact/Agreement.

It will be important for industry stakeholders to track and participate in the rulemaking processes in each State/Province in order to express industry's views on these requirements.

### **A Standard of Review and Decision**

Water withdrawal permits will be required in each Great Lake State or Province for any new or increased withdrawal that exceeds threshold limits set by these jurisdictions. For permits to be approved, the permitting authority will have to find these proposals to be consistent with the following criteria.

- All water withdrawn must be returned to the source watershed, less an allowance for consumptive use.
- The withdrawal will not result in significant individual or adverse impact “to the quantity or quality of the waters and water dependent natural resources and the applicable source watershed.”
- The applicant must utilize both existing and new/increased water withdrawals “so as to incorporate environmentally sound and economically feasible water conservation measures.”

- The new or increased withdrawal must be implemented so as to ensure that it is in compliance with all applicable municipal, State, and Federal laws as well as regional, interstate, and international agreements, including the Boundary Waters Treaty of 1909.
- The use of the water must be found to be “reasonable,” based on:
  - Whether the use is planned for efficient use and will avoid or minimize waste of water.
  - Whether the use of existing water is efficient.
  - A finding that there will be an acceptable balance between economic/social development, and environmental protection regarding the new withdrawal and use as well as the other existing or planned withdrawals and water uses that share the water source.
  - The supply potential of the water source, considering quantity, quality, reliability, and safe yield of hydrologically interconnected water sources.
  - The probable degree and duration of any adverse impacts caused, or expected to be caused, by the withdrawal and use compared with proposed plans and arrangements for avoidance or mitigation of such impacts.
  - Whether or not the proposal includes restoration of hydrologic conditions and functions of the source watershed.

**Water diversions out of the Basin are prohibited**

Section 4.8 of the Compact states, “[a]ll new or increased diversions are prohibited, except as provided for in this Article.” The Parties to the Agreement are directed to “adopt and implement measures to prohibit new or increased diversions, except as provided for in this Agreement” in Article 200, paragraph 1.

The exceptions to the ban apply only to straddling communities, straddling counties, and intra-Basin transfers. No individual or non-municipal corporate entity may apply for an exception. Straddling communities and counties are those where a portion lies within the Basin but water must be used and/or released outside of the Basin. Intra-Basin transfers are situations where water from a source within the Basin is returned to a separate or different watershed also located within the Basin. A transfer of water from a source within the Basin to a point outside of the Basin, regardless of the distance from the Basin boundary, would be considered a diversion and not permitted under the Compact and Agreement.

Exceptions can only be approved if they meet a set of rigorous conditions.

- The water must be used “solely for public water supply purposes.” Public water supply purposes are defined as water distribution facilities serving “largely residential customers that may also serve industrial, commercial, and other institutional operators.”
- All water (less an allowance for consumptive use) must be returned to the source watershed.
- It must be shown that the need for the water cannot be reasonably avoided through efficient use and conservation of the existing source.
- Quantities sought must be consistent with those considered reasonable for the purpose for which it is proposed.

- The exception cannot result in a significant or cumulative adverse impact to the waters or water dependent resources of the Basin – with consideration given to any precedent-setting consequences associated with the proposal.
- The applicant must minimize withdrawals or consumptive use through environmentally sound and economically feasible water conservation measures.
- The exception must be implemented so as to ensure compliance with all applicable municipal, State and federal laws as well as regional, interstate, and international agreements including the Boundary Waters Treaty of 1909.

And, the proposal must comply with all requirements of the decision-making standard applied to all new or increased water withdrawals under the Compact/Agreement.

### **III. HOW THE COMPACT WILL WORK:**

As noted, individual States and Provinces may need to modify their existing water withdrawal registration and approval processes so as to be consistent with Compact/Agreement requirements. Industry participation in the regulatory processes used to develop rules for these programs will be important. In addition, the Compact/Agreement puts in place new organizations that will coordinate, oversee, and in some cases approve both individual State/Provincial programs and certain individual water withdrawal projects.

#### **Withdrawal permit review process**

Permit applications for new or increased water withdrawals that exceed thresholds will be processed by the agencies within the jurisdiction in which the project is located. Among the key issues to be addressed in that legislation is the threshold for regulating new or increased withdrawals. If a State fails to adopt a threshold value within 10 years, the Compact establishes a default value of 100,000 gallons per day or a greater average over any 90-day period.

Those projects subject to Regional review (including diversions and large consumptive uses) will be forwarded, following individual State/Provincial technical review, to the Council/Regional Body for comment or action. Each jurisdiction must:

- Require the applicant to submit an application in such manner and with such accompanying information as the jurisdiction may prescribe.
- Determine that the proposal is consistent with Compact/Agreement requirements – including the Standard of Review and Decision or any implementing rules or regulations promulgated there under. The jurisdiction may approve, approve with modifications, or disapprove any proposal.
- Determine if a proposal is subject to Regional Review. If so, no approval can be given until the proposal has been submitted to the Regional Body and must take into account comments from Regional Review before a decision can be made on the proposal.

#### **New Regional structure**

The Compact/Agreement provisions call for creation of the Great Lakes – St. Lawrence River Basin Water Resources Council (Council) and the Great Lakes – St. Lawrence River Basin Regional Body (Regional Body).

The Council, to be created via the Compact, will be made up of the Governors of each Great Lakes State, ex officio. The Governors will appoint alternates who “may act in his or her place and stead with authority to attend all meetings of the Council and with power to vote in the absence of the member.”

The Regional Body created by the Agreement is already in place and is being administered by the Council of Great Lakes Governors. It consists of the same individuals expected to make up the Council plus “the Premiers of Ontario and Quebec or their designee.” It is likely that Council business will be conducted via the Regional Body with Canadian members or alternates abstaining when a matter pertains only to U.S. business and is addressed solely under the authority of the Compact.

The duties of the Council/Regional Body include:

- Identifying priorities, developing plans, and setting policies relating to the Basin water resources. It may revise the Standard of Review and Decision on unanimous vote. Note: Some States, in their implementing legislation, have required legislative review of any changes to the Standard. This was an important goal for industry.
- Review and make findings regarding whether water management and conservation programs in place in each jurisdiction are consistent with Compact/Agreement requirements.
- Promulgation and enforcement of rules necessary for the implementation of the Compact/Agreement. Rules can include establishment of application fees for proposals that must be reviewed by the Council/Regional Body.
- Track water withdrawal and use trends within the Basin and assess the potential for cumulative impacts that may result from these trends. Every five years, the Council/Regional Body must review and modify, as appropriate, the Basin-wide objectives in response to these impacts or trends.
- Review and approve (or reject) withdrawal applications involving Straddling Community or Intra-Basin Diversion exceptions to the diversion ban that exceed 100,000 gallons per day (90 day average).
- Review and approve (or reject) applications involving Straddling County exceptions of any quantity.
- Review proposals that one of the Parties determines is regionally significant or potentially precedent setting and elects to forward for such review. Parties of the Compact/Agreement may request that the Regional Body review such applications but only after consultation with the applicant and within 90 days of such notice.
- Track proposals being processed by the Parties and by majority vote request Regional review of regionally significant or potentially precedent-setting applications. (Consultation with the applicant and the 90 day review period, as described above applies.)

### **Public participation**

The Compact/Agreement provides for the establishment of advisory committees. The Council/Regional Body may vet policy, regulatory, or operational measures and procedures through these committees. They are to be comprised of representatives of the public, Federal, State, Tribal, county and local governments, water resources

agencies, water-using industries and sectors, water-interest groups and academic experts in related fields

All meetings of the Council/Regional Body shall be open to the public. Public notice must be made of all withdrawal applications, and regulatory actions. Public meetings or hearings may be held on applications or regulatory proposals. Public comments will be accepted. Council/Regional Body actions will be posted for public notice. It will be important for industry to track and participate in each of these public participation opportunities to share important information and points of view with decision makers.

### **Implementation schedule**

Many Compact/Agreement requirements must be fulfilled by each Great Lakes State within two to five years of Compact approval. One requirement carries with it an auto-implement provision that takes effect if jurisdictions fail to act on schedule.

Although the States have flexibility on the establishment of applicable water withdrawal thresholds above which permitting requirements apply, should any State fail to set these within 10 years, the Compact default threshold (100,000 gallons per day, or greater 90 day average) will be imposed. Industry will want to track implementation activities to see that workable thresholds are established and avoid imposition of the Compact/Agreement default.

While the Compact/Agreement documents give the States/Provinces some latitude on a number of issues, they are nonetheless complicated and detailed. In addition to the provisions described here, the documents include: detailed descriptions of Compact/Agreement findings and purpose; administrative provisions for conducting business under the Compact/Agreement – including the processing of permit applications; detailed requirements for conducting water resources related technical studies and research; specific powers of the Council/Regional Body (including a review that provisions of the Compact are being met every five years) and authorities delegated to the Parties; deferment of certain authority to the long standing provisions of the Chicago diversion; relationship of the new regulatory regime to existing rights and U.S. Federal authorities; dispute resolution processes; repeal of current inconsistent acts; as well as, amendment and severability provisions. Complete documents are available at: <http://www.cglg.org>.

## **IV. SPECIFIC ISSUES REQUIRING INDUSTRY ATTENTION DURING IMPLEMENTATION:**

Table II below summarizes a number of opportunities for industry representatives to insure that important administrative and other procedures are established by the States while making sure criteria include efficiency and support for sustainable development of industrial activity.

The final versions of the Compact/Agreement documents are substantially less constraining than earlier drafts. The active stakeholder engagement that took place throughout the drafting process produced substantial revisions that addressed many stakeholder issues and concerns. But, controversial elements remain and will require continued industry engagement to minimize unfavorable outcomes. These include:

**Table II  
Partial Compact/Agreement Implementation Schedule**

<b>Time From Compact Effective Date</b>	<b>Required Action by Each Jurisdiction</b>
One year	Report water withdrawal/diversion baselines above which Compact permitting provisions or prohibitions (of diversions) will apply. Baselines can be based either on historic withdrawal rates or most restrictive water system capacity – whichever approach the jurisdiction chooses.
One year	Regional Council adopts Basin-wide water conservation and efficiency objectives – potentially the same as objectives previously adopted by Regional Body on 4 December 2007.
One year	First report to Regional Body regarding established water management, conservation and efficiency programs. Subsequent reports filed every 5 years.
Two years	Regional Council determination of whether Jurisdiction programs meet Compact terms – or recommend changes to individual programs.
Two years	Develop individual Party water conservation and efficiency goals and objectives and implement either voluntary or mandatory conservation program. Assess effectiveness annually and report results to Compact Council, Regional Body and public.
Five years	Jurisdictions must have water withdrawal and management programs in place and operational.
Five years	Develop and maintain water resources (sources and quantities available) inventory.
Five years	Develop and maintain water withdrawal and use inventory – including amounts withdrawn, used consumptively, and/or diverted. Require annual water withdrawal reports, file information to regional water use data repository.
Five years	Begin providing notice to all Parties of new or increased withdrawal applications for a consumptive use of more than 5 million gallons per day.
Five years	Compact Council to review and consider changes to Basin-wide water conservation and efficiency objectives.
Five years	The Parties to the Compact must conduct an assessment of water withdrawal cumulative impacts and review the Exception Standard and withdrawal permitting Decision-making Standard
Ten years	Establish threshold values for new or increased withdrawals subject to permit review – or Compact/Agreement threshold (100,000 gal/day, or a greater 90 day average) will apply.

### **Possible Changes to the Standard**

The Regional Council/Body has the unilateral power to revise the decision making standard without seeking approval of the Parties. Drafters argue that this is not a problem given the public participation process requirements of the Compact/Agreement. Some legislatures included provisions in State legislation requiring their Governor to seek legislative approval of any changes to the standard. In those States where such legislation has not yet been adopted, industry may want to seek it. At the least, Council/Regional Body activities will have to be monitored closely to insure that industry provides input to any standard revision initiatives.

### **Grandfathering**

The baseline from which existing water withdrawals will be “grandfathered” will be important for determining when an “increase” in water withdrawal will trigger permit application requirements. Will it be the amount of water actually withdrawn over a set period prior to effective date of the Compact, or will it be the maximum capacity of the existing system? States have the right to establish the existing withdrawal baselines using either measure. The process for setting this benchmark will require the engagement of individual water users within each State.

Further, each State is required to establish a list of existing withdrawals and consumptive uses, which will provide the baseline for determining whether “increases” have occurred triggering the need for approvals at either the State or regional level. Once the list is submitted to the Council and Regional Body, the list becomes a “final” record of grandfathered use. Accordingly, the development of those lists by State agencies should be watched carefully, and individual facilities should scrutinize any listings of their use – objecting if necessary and providing corrections to that record before it is submitted to the Council and Regional Body.

### **Scope of Impact Assessment**

The definition of “scope of impact” for approval of withdrawals has been of most concern. What does “the applicable source watershed,” in which no “significant individual or adverse impact” is to occur mean? Compact/Agreement drafters agreed that it means impact on the primary Great Lake or Great Lake tributary watershed – not the local watershed. However, the Compact/Agreement language does not define it. A December 2005 e-mail from the Governors/Premiers Compact working group Chairman, Dr. Sam Speck (then Director of Ohio’s Department of Natural resources) began to clarify the matter. Indiana, Ohio and Pennsylvania clarified this vagueness in their respective legislative approval process. CGLI worked to have interpretive language – subsequently approved by the Council of Great Lakes Governors – made part of the Congressional legislative history associated with Compact approval. In essence, that language restricted the scope of impact to “the basin considered as a whole”, or the “applicable source watershed considered as a whole.” Environmental groups also sought clarification language. While they supported these interpretations, they also wanted to protect unique water dependent resources that are considered important to either the Basin or the source watershed as a whole. The result is a statement of understanding placed into the House of Representatives Judiciary Committee Report regarding Compact approval (H.R. 6577/SJR 45) that reads as follows:

*The Committee understands Section 4.11.2 to require that a withdrawal or consumptive use of Great Lakes water will be implemented so as to ensure that*

*the withdrawal or consumptive use will result in no significant individual or cumulative adverse impacts to the quantity or quality of the waters and water-dependent natural resources of either the Basin considered as a whole or the applicable source watershed considered as a whole. The committee understands that the States may take into consideration, when evaluating whether a proposed withdrawal or consumptive use is reasonable as provided in Section 4.11.5, those impacts of a withdrawal or consumptive use on the quantity or quality of waters and water dependent natural resources that have only localized impacts which are not of import to the Basin or source watershed considered as a whole. The Committee understands Section 4.11.2 to require States, when determining whether there will be significant individual or cumulative adverse impacts, a) to consider the impacts incurred in a particular tributary or stream reach where those impacts are important to either the Basin or the applicable source watershed as a whole, and b) to make a judgment of the nature, degree, scope, and materiality of the impacts and the regional importance of those impacts to the Basin and the applicable source watershed.*

The last sentence of this statement of “understanding” is the portion sought by environmental groups and is of concern since it adds back a degree of uncertainty to the scope of impact assessment that the industry effort sought to clarify. However, reference to the above clarifying language may be helpful. The specific understanding regarding scope of impact that industry believes was intended by Compact drafters appears in an exchange of correspondence between Congressmen Visclosky and Hobson and Gov. Jim Doyle of Wisconsin, Chairman of the Council of Great Lakes Governors, August, 2008. This correspondence can be found in The Congressional Record, September 22, 2008 on pages H8514 and H8515.

### **Industry follow-up needs**

As the Regional Body and individual States begin the process of Compact implementation, the following items are suggested as examples of important follow-up issues for industry representatives to address.

- Seek State/Provincial water withdrawal notification requirements that are simple and rely on flow estimating or measuring measures most appropriate for the facility involved.
- Seek existing water withdrawal capacity rather than current withdrawal rates (if lower than capacity) as a statement of baseline (grandfathered) conditions for each individual withdrawal point.
- Seek new or increased water withdrawal application processes that are sized to fit the quantity to be withdrawn and supply availability. i.e. small withdrawals or withdrawals from high capacity sources should warrant use of application process that require more simple information and demonstration processes than those involving more challenging conditions.
- When consumptive uses are to be reported or assessed, seek allowable consumptive use coefficients that reflect sector, individual facility, specific process, and facility age circumstances.
- Maintain agreement that water incorporated into products should not be considered to be water diverted from the source watershed.
- The water re-use and recycling practices that are inherent in industry processes should be given full credit in water use planning or allocation programs.

- When water conservation requirements are considered by jurisdictional agencies, water conservation credit should be given for measures previously employed (i.e. credit for early action).
- Water conservation measures employed should be consistent with standard BMPs relative to the industry in which they are applied.
- Existing practices such as spray irrigation or other measures that apply water to landscapes should qualify for water re-use credits. Such credits should be eligible for trading in established water resource allocation programs.

Now that the Compact has been finalized, the Regional Body, Regional Council, and State/Provincial agencies will be busy putting their implementation measures in place. It will be important for industry to stay engaged with these entities to insure successful outcomes for industry.

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This paper was prepared by Dale Phenicie, Evelyn Strader and George Kuper of the Council of Great Lakes Industries and reviewed by Timothy Weston of K&L Gates LLP and Linda Woggon of the Ohio Chamber of Commerce. It does not constitute legal advice. For those seeking a more detailed account of the Compact/Agreement deliberations see [The Great Lakes Water Wars](#), Peter Annin, Island Press, 2006

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# Great Lakes – St. Lawrence River Basin Water Resources Compact (Compact) Great Lakes – St. Lawrence River Basin Water Resources Agreement (Agreement) Provisions and Structural Relationships

