

distinguished career as a champion for the oceans. We will all miss him and his passion for protecting the marine environment.

Mr. Speaker, I urge all Members to support the bill before us today. In closing, I would like to thank the gentleman from Alaska, the distinguished ranking member of the Natural Resources Committee, Mr. YOUNG, for managing the bills with me today.

Mr. SAXTON. Mr. Speaker, I rise today to urge my colleagues to join me in supporting authorization of the Coastal and Estuarine Land Conservation Program. H.R. 1907—the Coastal and Estuarine Land Conservation Program Act authorizes a voluntary partnership program to provide badly needed Federal funds for the purchase and protection of sensitive coastal ecosystems with the goal of better ensuring the ecological and economic health of our coastal communities.

It is well known that more and more people are moving to the coast to enjoy its beauty and recreational opportunities. An estimated 60 percent of Americans will live along our coasts by 2010. Fourteen of our Nation's 20 largest cities are located on the coast. More than ever, the pressures of urbanization and pollution along our Nation's shores threaten to impair watersheds, impact wildlife habitat and cause irreparable damage to the fragile coastal ecology.

Created by Congress in fiscal year 2002, the Coastal and Estuarine Land Conservation Program—also known as CELP—was modeled after the successful Forest Legacy Program. To date, this program has invested nearly \$200 million towards 150 conservation projects in 26 of the Nation's 35 coastal and Great Lakes States and territories. This Federal investment has leveraged more than an equal amount of State, local and private funding, demonstrating the importance of coastal protection throughout the Nation and the critical role of Federal funding to its success.

More importantly, the program has helped to conserve lands and waters that will offer numerous benefits to local communities by preserving water quality, natural areas for wildlife and birds, and outdoor recreational opportunities—thereby protecting for the future the very things we love about the coasts. Although the program has been in existence for six years, it has yet to be formally authorized. This legislation seeks to do just that.

This bill will formally authorize this Federal/State partnership program explicitly for conservation of coastal lands. CELP will award grants on a competitive basis to the 35 coastal and Great Lakes States and territories or National Estuarine Research Reserves for the purpose of protecting lands that are critical to the health of our coasts and estuaries. This legislation will allow coastal States to compete for 1 to 1 matching funds to acquire land or easements from willing sellers to protect coastal areas that have considerable conservation, recreation, ecological, historical or aesthetic values threatened by development or conversion.

By establishing a plan for the preservation of our coastal areas, the Act will build on the foundation laid down by the Coastal Zone Management Act, and will encourage voluntary land conservation partnerships among the Federal Government, State agencies, local governments, private landowners and non-

profits. It will not only improve the quality of coastal areas and the marine life they support, but also sustain surrounding communities and their way of life.

I thank Representative CAPPS and all of our cosponsors for their support of H.R. 1907 and I ask my colleagues to support this legislation.

Mr. FARR. Mr. Speaker, I rise in support of H.R. 1907 the Coastal and Estuarine Land Conservation and Protection Act authored by my friend and fellow co-chair of the House Oceans Caucus from New Jersey, Mr. JIM SAXTON.

I would like to take this opportunity to express my gratitude for all that Mr. SAXTON has done during his distinguished career in this House to help protect and promote the oceans. He has been a great ally in the fight to keep our oceans from harm and make sure that they will be healthy and productive for our grandchildren's grandchildren. Mr. SAXTON joined me in coauthoring a comprehensive ocean management bill, H.R. 21, known as Oceans-21, that would create a national ocean policy and create coordinated State and Federal management of our oceans. I will continue the fight for the oceans but I will miss having the leadership, friendship, and vision of JIM SAXTON next year.

The conservation of coastal habitat a necessary action identified in the final reports of both the Pew Oceans Commission and the U.S. Commission on Ocean Policy. Coastal areas are vitally important to our ocean health, since most of our use of the oceans, both recreational and commercial take place in the coastal zone. Estuaries provide even-more important services such as mitigating the impacts from runoff and are known to be the nurseries that support our country's fisheries.

This bill is necessary to authorize a coastal land conservation program and extend the utility of one of our best ocean management laws: the Coastal Zone Management Act. The Coastal Zone Management Act allows States and the Federal Government to cooperate in the management of the resources and environment of the coasts. States which have approved coastal management plans and National Estuarine Research Reserves will be eligible for grants to conserve coastal lands and estuaries that have significant conservation, recreation, ecological, historical, or aesthetic values, or that are threatened by conversion from their natural, undeveloped, or recreational state to other uses or could be managed or restored to effectively conserve, enhance, or restore ecological function.

I also lend my support to this bill because I have seen the good that this program can do. The Elkhorn Slough, covering 1,330 acres in my district, is one of the relatively few coastal wetlands remaining in California. It became a part of the National Estuarine Research Reserve System in 1979. The main channel of the slough, which winds inland nearly seven miles, is flanked by a broad salt marsh second in size in California only to San Francisco Bay.

Elkhorn Slough is home to more than 400 species of invertebrates, 80 species of fish and 200 species of birds. The channels and tidal creeks of the slough are nurseries for many species of fish and help support fishing off of the West Coast. At least six threatened or endangered species utilize the slough or its surrounding uplands, including peregrine falcons, Santa Cruz long-toed salamanders, Cali-

fornia red-legged frogs, brown pelicans, least terns and Southern Sea Otters. The slough is also an important stop on the Pacific Flyway, providing feeding and resting ground for many types of migrating waterfowl and shorebirds.

Mr. Speaker, this bill authorizes a program that is necessary for the protection of our coasts and our oceans for future generations. I cannot emphasize enough the need for this Congress to provide for ocean stewardship now. I support the Coastal and Estuarine Land Conservation and Protection Act and I urge my colleagues to join me.

Ms. BORDALLO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ELLISON). The question is on the motion offered by the gentlewoman from Guam (Ms. BORDALLO) that the House suspend the rules and pass the bill, H.R. 1907, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. BROUN of Georgia. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### GREAT LAKES—ST. LAWRENCE RIVER BASIN WATER RESOURCES COMPACT

Ms. SUTTON. Mr. Speaker, I move to suspend the rules and pass the Senate joint resolution (S.J. Res. 45) expressing the consent and approval of Congress to an interstate compact regarding water resources in the Great Lakes—St. Lawrence River Basin.

The Clerk read the title of the Senate joint resolution.

The text of the Senate joint resolution is as follows:

S.J. RES. 45

Whereas the interstate compact regarding water resources in the Great Lakes—St. Lawrence River Basin reads as follows:

#### "AGREEMENT

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

#### "GREAT LAKES—ST. LAWRENCE RIVER BASIN WATER RESOURCES COMPACT

#### "ARTICLE 1

#### "SHORT TITLE, DEFINITIONS, PURPOSES AND DURATION

"Section 1.1. *Short Title.* This act shall be known and may be cited as the "Great Lakes—St. Lawrence River Basin Water Resources Compact."

"Section 1.2. *Definitions.* For the purposes of this Compact, and of any supplemental or concurring legislation enacted pursuant thereto, except as may be otherwise required by the context:

"Adaptive Management means a Water resources management system that provides a systematic process for evaluation, monitoring and learning from the outcomes of

operational programs and adjustment of policies, plans and programs based on experience and the evolution of scientific knowledge concerning Water resources and Water Dependent Natural Resources.

**"Agreement** means the Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement.

**"Applicant** means a Person who is required to submit a Proposal that is subject to management and regulation under this Compact. **Application** has a corresponding meaning.

**"Basin or Great Lakes—St. Lawrence River Basin** means the watershed of the Great Lakes and the St. Lawrence River upstream from Trois-Rivières, Québec within the jurisdiction of the Parties.

**"Basin Ecosystem or Great Lakes—St. Lawrence River Basin Ecosystem** means the interacting components of air, land, Water and living organisms, including humankind, within the Basin.

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

**"Compact** means this Compact.

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

**"Council** means the Great Lakes—St. Lawrence River Basin Water Resources Council, created by this Compact.

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

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

**"Cumulative Impacts** mean the impact on the Basin Ecosystem that results from incremental effects of all aspects of a Withdrawal, Diversion or Consumptive Use in addition to other past, present, and reasonably foreseeable future Withdrawals, Diversions and Consumptive Uses regardless of who undertakes the other Withdrawals, Diversions and Consumptive Uses. Cumulative Impacts can result from individually minor but collectively significant Withdrawals, Diversions and Consumptive Uses taking place over a period of time.

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

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

**"Environmentally Sound and Economically Feasible Water Conservation Measures** mean those measures, methods, technologies or practices for efficient water use and for reduction of water loss and waste or for reducing a Withdrawal, Consumptive Use or Diversion that i) are environmentally sound, ii) reflect best practices applicable to the water use sector, iii) are technically feasible and available, iv) are economically feasible and cost effective based on an analysis that considers direct and avoided economic and environmental costs and v) consider the particular facilities and processes involved, tak-

ing into account the environmental impact, age of equipment and facilities involved, the processes employed, energy impacts and other appropriate factors.

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

**"Exception Standard** means the standard for Exceptions established in Section 4.9.4.

**"Intra-Basin Transfer** means the transfer of Water from the watershed of one of the Great Lakes into the watershed of another Great Lake.

**"Measures** means any legislation, law, regulation, directive, requirement, guideline, program, policy, administrative practice or other procedure.

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

**"New or Increased Withdrawal or Consumptive Use** means a new Withdrawal or Consumptive Use or an increase in an existing Withdrawal or Consumptive Use.

**"Originating Party** means the Party within whose jurisdiction an Application or registration is made or required.

**"Party** means a State party to this Compact.

**"Person** means a human being or a legal person, including a government or a non-governmental organization, including any scientific, professional, business, non-profit, or public interest organization or association that is neither affiliated with, nor under the direction of a government.

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

**"Proposal** means a Withdrawal, Diversion or Consumptive Use of Water that is subject to this Compact.

**"Province** means Ontario or Québec.

**"Public Water Supply Purposes** means water distributed to the public through a physically connected system of treatment, storage and distribution facilities serving a group of largely residential customers that may also serve industrial, commercial, and other institutional operators. Water Withdrawn directly from the Basin and not through such a system shall not be considered to be used for Public Water Supply Purposes.

**"Regional Body** means the members of the Council and the Premiers of Ontario and Québec or their designee as established by the Agreement.

**"Regional Review** means the collective review by the Regional Body as described in Article 4 of this Compact.

**"Source Watershed** means the watershed from which a Withdrawal originates. If Water is Withdrawn directly from a Great Lake or from the St. Lawrence River, then the Source Watershed shall be considered to be the watershed of that Great Lake or the watershed of the St. Lawrence River, respectively. If Water is Withdrawn from the watershed of a stream that is a direct tributary to a Great Lake or a direct tributary to the St. Lawrence River, then the Source Water-

shed shall be considered to be the watershed of that Great Lake or the watershed of the St. Lawrence River, respectively, with a preference to the direct tributary stream watershed from which it was Withdrawn.

**"Standard of Review and Decision** means the Exception Standard, Decision-Making Standard and reviews as outlined in Article 4 of this Compact.

**"State** means one of the states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio or Wisconsin or the Commonwealth of Pennsylvania.

**"Straddling Community** means any incorporated city, town or the equivalent thereof, wholly within any County that lies partly or completely within the Basin, whose corporate boundary existing as of the effective date of this Compact, is partly within the Basin or partly within two Great Lakes watersheds.

**"Technical Review** means a detailed review conducted to determine whether or not a Proposal that requires Regional Review under this Compact meets the Standard of Review and Decision following procedures and guidelines as set out in this Compact.

**"Water** means ground or surface water contained within the Basin.

**"Water Dependent Natural Resources** means the interacting components of land, Water and living organisms affected by the Waters of the Basin.

**"Waters of the Basin or Basin Water** means the Great Lakes and all streams, rivers, lakes, connecting channels and other bodies of water, including tributary groundwater, within the Basin.

**"Withdrawal** means the taking of water from surface water or groundwater. **Withdraw** has a corresponding meaning.

**"Section 1.3. Findings and Purposes.**

"The legislative bodies of the respective Parties hereby find and declare:

"1. Findings:

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

"b. The Waters of the Basin are interconnected and part of a single hydrologic system;

"c. The Waters of the Basin can concurrently serve multiple uses. Such multiple uses include municipal, public, industrial, commercial, agriculture, mining, navigation, energy development and production, recreation, the subsistence, economic and cultural activities of native peoples, Water quality maintenance, and the maintenance of fish and wildlife habitat and a balanced ecosystem. And, other purposes are encouraged, recognizing that such uses are interdependent and must be balanced;

"d. Future Diversions and Consumptive Uses of Basin Water resources have the potential to significantly impact the environment, economy and welfare of the Great Lakes—St. Lawrence River region;

"e. Continued sustainable, accessible and adequate Water supplies for the people and economy of the Basin are of vital importance; and,

"f. The Parties have a shared duty to protect, conserve, restore, improve and manage the renewable but finite Waters of the Basin for the use, benefit and enjoyment of all their citizens, including generations yet to come. The most effective means of protecting, conserving, restoring, improving and managing the Basin Waters is through the joint pursuit of unified and cooperative principles, policies and programs mutually-agreed upon, enacted and adhered to by all Parties.

"2. Purposes:

"a. To act together to protect, conserve, restore, improve and effectively manage the

Waters and Water Dependent Natural Resources of the Basin under appropriate arrangements for intergovernmental cooperation and consultation because current lack of full scientific certainty should not be used as a reason for postponing measures to protect the Basin Ecosystem;

"b. To remove causes of present and future controversies;

"c. To provide for cooperative planning and action by the Parties with respect to such Water resources;

"d. To facilitate consistent approaches to Water management across the Basin while retaining State management authority over Water management decisions within the Basin;

"e. To facilitate the exchange of data, strengthen the scientific information base upon which decisions are made and engage in consultation on the potential effects of proposed Withdrawals and losses on the Waters and Water Dependent Natural Resources of the Basin;

"f. To prevent significant adverse impacts of Withdrawals and losses on the Basin's ecosystems and watersheds;

"g. To promote interstate and State-Provincial comity; and,

"h. To promote an Adaptive Management approach to the conservation and management of Basin Water resources, which recognizes, considers and provides adjustments for the uncertainties in, and evolution of, scientific knowledge concerning the Basin's Waters and Water Dependent Natural Resources.

#### "Section 1.4. Science.

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

"2. The strategy shall guide the collection and application of scientific information to support:

"a. An improved understanding of the individual and Cumulative Impacts of Withdrawals from various locations and Water sources on the Basin Ecosystem and to develop a mechanism by which impacts of Withdrawals may be assessed;

"b. The periodic assessment of Cumulative Impacts of Withdrawals, Diversions and Consumptive Uses on a Great Lake and St. Lawrence River watershed basis;

"c. Improved scientific understanding of the Waters of the Basin;

"d. Improved understanding of the role of groundwater in Basin Water resources management; and,

"e. The development, transfer and application of science and research related to Water conservation and Water use efficiency.

### "ARTICLE 2

#### "ORGANIZATION

##### "Section 2.1. Council Created.

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

##### "Section 2.2. Council Membership.

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

##### "Section 2.3. Alternates.

"Each member of the Council shall appoint at least one alternate 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. Unless otherwise provided by law of the Party for which he or she is appointed, each alternate shall serve during the term of the member appointing him or her, subject to removal at

the pleasure of the member. In the event of a vacancy in the office of alternate, it shall be filled in the same manner as an original appointment for the unexpired term only.

##### "Section 2.4. Voting.

"1. Each member is entitled to one vote on all matters that may come before the Council.

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

"3. The Council shall annually adopt a budget for each fiscal year and the amount required to balance the budget shall be apportioned equitably among the Parties by unanimous vote of the Council. The appropriation of such amounts shall be subject to such review and approval as may be required by the budgetary processes of the respective Parties.

"4. The participation of Council members from a majority of the Parties shall constitute a quorum for the transaction of business at any meeting of the Council.

##### "Section 2.5. Organization and Procedure.

"The Council shall provide for its own organization and procedure, and may adopt rules and regulations governing its meetings and transactions, as well as the procedures and timeline for submission, review and consideration of Proposals that come before the Council for its review and action. The Council shall organize, annually, by the election of a Chair and Vice Chair from among its members. Each member may appoint an advisor, who may attend all meetings of the Council and its committees, but shall not have voting power. The Council may employ or appoint professional and administrative personnel, including an Executive Director, as it may deem advisable, to carry out the purposes of this Compact.

##### "Section 2.6. Use of Existing Offices and Agencies.

"It is the policy of the Parties to preserve and utilize the functions, powers and duties of existing offices and agencies of government to the extent consistent with this Compact. Further, the Council shall promote and aid the coordination of the activities and programs of the Parties concerned with Water resources management in the Basin. To this end, but without limitation, the Council may:

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

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

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

##### "Section 2.7. Jurisdiction.

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

##### "Section 2.8. Status, Immunities and Privileges.

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

"2. The property and assets of the Council, wherever located and by whomsoever held, shall be considered public property and shall

be immune from search, requisition, confiscation, expropriation or any other form of taking or foreclosure by executive or legislative action.

"3. The Council, its property and its assets, income and the operations it carries out pursuant to this Compact shall be immune from all taxation by or under the authority of any of the Parties or any political subdivision thereof; provided, however, that in lieu of property taxes the Council may make reasonable payments to local taxing districts in annual amounts which shall approximate the taxes lawfully assessed upon similar property.

##### "Section 2.9. Advisory Committees.

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

### "ARTICLE 3

#### "GENERAL POWERS AND DUTIES

##### "Section 3.1. General.

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

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

The Council shall identify priorities and develop plans and policies relating to Basin Water resources. It shall adopt and promote uniform and coordinated policies for Water resources conservation and management in the Basin.

##### "Section 3.2. Council Powers.

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

##### "Section 3.3. Rules and Regulations.

"1. The Council may promulgate and enforce such rules and regulations as may be necessary for the implementation and enforcement of this Compact. The Council may adopt by regulation, after public notice and public hearing, reasonable Application fees with respect to those Proposals for Exceptions that are subject to Council review

under Section 4.9. Any rule or regulation of the Council, other than one which deals solely with the internal management of the Council or its property, shall be adopted only after public notice and hearing.

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

#### **"Section 3.4. Program Review and Findings.**

"1. Each Party shall submit a report to the Council and the Regional Body detailing its Water management and conservation and efficiency programs that implement this Compact. The report shall set out the manner in which Water Withdrawals are managed by sector, Water source, quantity or any other means, and how the provisions of the Standard of Review and Decision and conservation and efficiency programs are implemented. The first report shall be provided by each Party one year from the effective date of this Compact and thereafter every 5 years.

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

"a. 30 days after the first report is submitted by all Parties; and,

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

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

"3. As one of its duties and responsibilities, the Council may recommend a range of approaches to the Parties with respect to the development, enhancement and application of Water management and conservation and efficiency programs to implement the Standard of Review and Decision reflecting improved scientific understanding of the Waters of the Basin, including groundwater, and the impacts of Withdrawals on the Basin Ecosystem.

### **"ARTICLE 4**

#### **"WATER MANAGEMENT AND REGULATION**

##### **"Section 4.1. Water Resources Inventory, Registration and Reporting.**

"1. Within five years of the effective date of this Compact, each Party shall develop and maintain a Water resources inventory for the collection, interpretation, storage, retrieval exchange, and dissemination of information concerning the Water resources of the Party, including, but not limited to, information on the location, type, quantity, and use of those resources and the location, type, and quantity of Withdrawals, Diversions and Consumptive Uses. To the extent feasible, the Water resources inventory shall be developed in cooperation with local, State, federal, tribal and other private agencies and entities, as well as the Council. Each Party's agencies shall cooperate with that Party in the development and maintenance of the inventory.

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

"3. To develop and maintain a compatible base of Water use information, within five years of the effective date of this Compact any Person who Withdraws Water in an amount of 100,000 gallons per day or greater average in any 30-day period (including Con-

sumptive Uses) from all sources, or Diverts Water of any amount, shall register the Withdrawal or Diversion by a date set by the Council unless the Person has previously registered in accordance with an existing State program. The Person shall register the Withdrawal or Diversion with the Originating Party using a form prescribed by the Originating Party that shall include, at a minimum and without limitation: the name and address of the registrant and date of registration; the locations and sources of the Withdrawal or Diversion; the capacity of the Withdrawal or Diversion per day and the amount Withdrawn or Diverted from each source; the uses made of the Water; places of use and places of discharge; and, such other information as the Originating Party may require. All registrations shall include an estimate of the volume of the Withdrawal or Diversion in terms of gallons per day average in any 30-day period.

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

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

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

##### **"Section 4.2. Water Conservation and Efficiency Programs.**

"1. The Council commits to identify, in cooperation with the Provinces, Basin-wide Water conservation and efficiency objectives to assist the Parties in developing their Water conservation and efficiency program. These objectives are based on the goals of:

"a. Ensuring improvement of the Waters and Water Dependent Natural Resources;

"b. Protecting and restoring the hydrologic and ecosystem integrity of the Basin;

"c. Retaining the quantity of surface water and groundwater in the Basin;

"d. Ensuring sustainable use of Waters of the Basin; and,

"e. Promoting the efficiency of use and reducing losses and waste of Water.

"2. Within two years of the effective date of this Compact, each Party shall develop its own Water conservation and efficiency goals and objectives consistent with the Basin-wide goals and objectives, and shall develop and implement a Water conservation and efficiency program, either voluntary or mandatory, within its jurisdiction based on the Party's goals and objectives. Each Party shall annually assess its programs in meeting the Party's goals and objectives, report to the Council and the Regional Body and make this annual assessment available to the public.

"3. Beginning five years after the effective date of this Compact, and every five years thereafter, the Council, in cooperation with the Provinces, shall review and modify as appropriate the Basin-wide objectives, and the Parties shall have regard for any such modifications in implementing their programs.

This assessment will be based on examining new technologies, new patterns of Water use, new resource demands and threats, and Cumulative Impact assessment under Section 4.15.

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

"a. Measures that promote efficient use of Water;

"b. Identification and sharing of best management practices and state of the art conservation and efficiency technologies;

"c. Application of sound planning principles;

"d. Demand-side and supply-side Measures or incentives; and,

"e. Development, transfer and application of science and research.

"5. Each Party shall implement in accordance with paragraph 2 above a voluntary or mandatory Water conservation program for all, including existing, Basin Water users. Conservation programs need to adjust to new demands and the potential impacts of cumulative effects and climate.

##### **"Section 4.3. Party Powers and Duties.**

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

"2. Each Party shall require an Applicant to submit an Application in such manner and with such accompanying information as the Party shall prescribe.

"3. No Party may approve a Proposal if the Party determines that the Proposal is inconsistent with this Compact or the Standard of Review and Decision or any implementing rules or regulations promulgated thereunder. The Party may approve, approve with modifications or disapprove any Proposal depending on the Proposal's consistency with this Compact and the Standard of Review and Decision.

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

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

##### **"Section 4.4. Requirement for Originating Party Approval.**

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

##### **"Section 4.5. Regional Review.**

"1. General.

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

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

"c. Proposals for Exceptions subject to Regional Review shall be submitted by the Originating Party to the Regional Body for Regional Review, and where applicable, to the Council for concurrent review.

"d. The Parties agree that the protection of the integrity of the Great Lakes—St. Lawrence River Basin Ecosystem shall be the overarching principle for reviewing Proposals subject to Regional Review, recognizing uncertainties with respect to demands that may be placed on Basin Water, including groundwater, levels and flows of the Great Lakes and the St. Lawrence River, future changes in environmental conditions, the reliability of existing data and the extent to which Diversions may harm the integrity of the Basin Ecosystem.

"e. The Originating Party shall have lead responsibility for coordinating information for resolution of issues related to evaluation of a Proposal, and shall consult with the Applicant throughout the Regional Review Process.

"f. A majority of the members of the Regional Body may request Regional Review of a regionally significant or potentially precedent setting Proposal. Such Regional Review must be conducted, to the extent possible, within the time frames set forth in this Section. Any such Regional Review shall be undertaken only after consulting the Applicant.

"2. Notice from Originating Party to the Regional Body.

"a. The Originating Party shall determine if a Proposal is subject to Regional Review. If so, the Originating Party shall provide timely notice to the Regional Body and the public.

"b. Such notice shall not be given unless and until all information, documents and the Originating Party's Technical Review needed to evaluate whether the Proposal meets the Standard of Review and Decision have been provided.

"c. An Originating Party may:

"i. Provide notice to the Regional Body of an Application, even if notification is not required; or,

"ii. Request Regional Review of an application, even if Regional Review is not required. Any such Regional Review shall be undertaken only after consulting the Applicant.

"d. An Originating Party may provide preliminary notice of a potential Proposal.

"3. Public Participation.

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

"b. The Regional Body shall provide notice to the public of a Proposal undergoing Regional Review. Such notice shall indicate that the public has an opportunity to comment in writing to the Regional Body on whether the Proposal meets the Standard of Review and Decision.

"c. The Regional Body shall hold a public meeting in the State or Province of the Originating Party in order to receive public comment on the issue of whether the Proposal under consideration meets the Standard of Review and Decision.

"d. The Regional Body shall consider the comments received before issuing a Declaration of Finding.

"e. The Regional Body shall forward the comments it receives to the Originating Party.

"4. Technical Review.

"a. The Originating Party shall provide the Regional Body with its Technical Review of the Proposal under consideration.

"b. The Originating Party's Technical Review shall thoroughly analyze the Proposal and provide an evaluation of the Proposal sufficient for a determination of whether the Proposal meets the Standard of Review and Decision.

"c. Any member of the Regional Body may conduct their own Technical Review of any Proposal subject to Regional Review.

"d. At the request of the majority of its members, the Regional Body shall make such arrangements as it considers appropriate for an independent Technical Review of a Proposal.

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

"5. Declaration of Finding.

"a. The Regional Body shall meet to consider a Proposal. The Applicant shall be provided with an opportunity to present the Proposal to the Regional Body at such time.

"b. The Regional Body, having considered the notice, the Originating Party's Technical Review, any other independent Technical Review that is made, any comments or objections including the analysis of comments made by the public, First Nations and federally recognized Tribes, and any other information that is provided under this Compact shall issue a Declaration of Finding that the Proposal under consideration:

"i. Meets the Standard of Review and Decision;

"ii. Does not meet the Standard of Review and Decision; or,

"iii. Would meet the Standard of Review and Decision if certain conditions were met.

"c. An Originating Party may decline to participate in a Declaration of Finding made by the Regional Body.

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

"e. If the members of the Regional Body who participate in the Declaration of Finding all agree, they shall issue a written Declaration of Finding with consensus.

"f. In the event that the members cannot agree, the Regional Body shall make every reasonable effort to achieve consensus within 25 days.

"g. Should consensus not be achieved, the Regional Body may issue a Declaration of Finding that presents different points of view and indicates each Party's conclusions.

"h. The Regional Body shall release the Declarations of Finding to the public.

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

**"Section 4.6. Proposals Subject to Prior Notice.**

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

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

**"Section 4.7. Council Actions.**

"1. Proposals for Exceptions subject to Council Review shall be submitted by the

Originating Party to the Council for Council Review, and where applicable, to the Regional Body for concurrent review.

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

**"Section 4.8. Prohibition of New or Increased Diversions.**

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

**"Section 4.9. Exceptions to the Prohibition of Diversions.**

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

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

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

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

"iii. Maximizes the portion of water returned to the Source Watershed as Basin Water and minimizes the surface water or groundwater from outside the Basin;

"b. If the Proposal results from a New or Increased Withdrawal of 100,000 gallons per day or greater average over any 90-day period, the Proposal shall also meet the Exception Standard; and,

"c. If the Proposal results in a New or Increased Consumptive Use of 5 million gallons per day or greater average over any 90-day period, the Proposal shall also undergo Regional Review.

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

"a. If the Proposal results from a New or Increased Withdrawal less than 100,000 gallons per day average over any 90-day period, the Proposal shall be subject to management and regulation at the discretion of the Originating Party.

"b. If the Proposal results from a New or Increased Withdrawal 100,000 gallons per day or greater average over any 90-day period and if the Consumptive Use resulting from the Withdrawal is less than 5 million gallons per day average over any 90-day period:

"i. The Proposal shall meet the Exception Standard and be subject to management and regulation by the Originating Party, except that the Water may be returned to another Great Lake watershed rather than the Source Watershed;

"ii. The Applicant shall demonstrate that there is no feasible, cost effective, and environmentally sound water supply alternative within the Great Lake watershed to which

the Water will be transferred, including conservation of existing water supplies; and,

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

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

“i. The Proposal shall be subject to management and regulation by the Originating Party and shall meet the Exception Standard, ensuring that Water Withdrawn shall be returned to the Source Watershed;

“ii. The Applicant shall demonstrate that there is no feasible, cost effective, and environmentally sound water supply alternative within the Great Lake watershed to which the Water will be transferred, including conservation of existing water supplies;

“iii. The Proposal undergoes Regional Review; and,

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

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

“a. The Water shall be used solely for the Public Water Supply Purposes of the Community within a Straddling County that is without adequate supplies of potable water;

“b. The Proposal meets the Exception Standard, maximizing the portion of water returned to the Source Watershed as Basin Water and minimizing the surface water or groundwater from outside the Basin;

“c. The Proposal shall be subject to management and regulation by the Originating Party, regardless of its size;

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

“e. Caution shall be used in determining whether or not the Proposal meets the conditions for this Exception. This Exception should not be authorized unless it can be shown that it will not endanger the integrity of the Basin Ecosystem;

“f. The Proposal undergoes Regional Review; and,

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

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

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

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

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

“c. All Water Withdrawn shall be returned, either naturally or after use, to the Source Watershed less an allowance for Consumptive Use. No surface water or groundwater from the outside the Basin may be used to

satisfy any portion of this criterion except if it:

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

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

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

“e. The Exception will be implemented so as to incorporate Environmentally Sound and Economically Feasible Water Conservation Measures to minimize Water Withdrawals or Consumptive Use;

“f. The Exception will 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; and,

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

#### **“Section 4.10. Management and Regulation of New or Increased Withdrawals and Consumptive Uses.**

“1. Within five years of the effective date of this Compact, each Party shall create a program for the management and regulation of New or Increased Withdrawals and Consumptive Uses by adopting and implementing Measures consistent with the Decision-Making Standard. Each Party, through a considered process, shall set and may modify threshold levels for the regulation of New or Increased Withdrawals in order to assure an effective and efficient Water management program that will ensure that uses overall are reasonable, that Withdrawals overall will not result in significant impacts to the Waters and Water Dependent Natural Resources of the Basin, determined on the basis of significant impacts to the physical, chemical, and biological integrity of Source Watersheds, and that all other objectives of the Compact are achieved. Each Party may determine the scope and thresholds of its program, including which New or Increased Withdrawals and Consumptive Uses will be subject to the program.

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

“3. The Parties intend programs for New or Increased Withdrawals and Consumptive Uses to evolve as may be necessary to protect Basin Waters. Pursuant to Section 3.4, the Council, in cooperation with the Provinces, shall periodically assess the Water management programs of the Parties. Such assessments may produce recommendations for the strengthening of the programs, including without limitation, establishing lower thresholds for management and regulation in accordance with the Decision-Making Standard.

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

“Proposals subject to management and regulation in Section 4.10 shall be declared to meet this Decision-Making Standard and may be approved as appropriate only when the following criteria are met:

“1. All Water Withdrawn shall be returned, either naturally or after use, to the Source Watershed less an allowance for Consumptive Use;

“2. The Withdrawal or Consumptive Use will be implemented so as to ensure that the Proposal will result in no significant individual or cumulative adverse impacts to the quantity or quality of the Waters and Water Dependent Natural Resources and the applicable Source Watershed;

“3. The Withdrawal or Consumptive Use will be implemented so as to incorporate Environmentally Sound and Economically Feasible Water Conservation Measures;

“4. The Withdrawal or Consumptive Use will 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;

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

“a. Whether the proposed Withdrawal or Consumptive Use is planned in a fashion that provides for efficient use of the water, and will avoid or minimize the waste of Water;

“b. If the Proposal is for an increased Withdrawal or Consumptive use, whether efficient use is made of existing water supplies;

“c. The balance between economic development, social development and environmental protection of the proposed Withdrawal and use and other existing or planned withdrawals and water uses sharing the water source;

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

“e. The probable degree and duration of any adverse impacts caused or expected to be caused by the proposed Withdrawal and use under foreseeable conditions, to other lawful consumptive or non-consumptive uses of water or to the quantity or quality of the Waters and Water Dependent Natural Resources of the Basin, and the proposed plans and arrangements for avoidance or mitigation of such impacts; and,

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

#### **“Section 4.12. Applicability.**

“1. Minimum Standard. This Standard of Review and Decision shall be used as a minimum standard. Parties may impose a more restrictive decision-making standard for Withdrawals under their authority. It is also acknowledged that although a Proposal meets the Standard of Review and Decision it may not be approved under the laws of the Originating Party that has implemented more restrictive Measures.

#### **“2. Baseline.**

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

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

“ii. A list of the capacity of existing systems as of the effective date of this Compact. The capacity of the existing systems should be presented in terms of Withdrawal capacity, treatment capacity, distribution capacity, or other capacity limiting factors. The capacity of the existing systems must represent the state of the systems. Existing capacity determinations shall be based upon approval limits or the most restrictive capacity information.

“b. For all purposes of this Compact, volumes of Diversions, Consumptive Uses, or Withdrawals of Water set forth in the list(s) prepared by each Party in accordance with



this Section, shall constitute the baseline volume.

“c. The list(s) shall be furnished to the Regional Body and the Council within one year of the effective date of this Compact.

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

“4. Change of Ownership. Unless a new owner proposes a project that shall result in a Proposal for a New or Increased Diversion or Consumptive Use subject to Regional Review or Council approval, the change of ownership in and of itself shall not require Regional Review or Council approval.

“5. Groundwater. The Basin surface water divide shall be used for the purpose of managing and regulating New or Increased Diversions, Consumptive Uses or Withdrawals of surface water and groundwater.

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

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

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

“9. Hydrologic Units. The Lake Michigan and Lake Huron watersheds shall be considered to be a single hydrologic unit and watershed.

“10. Bulk Water Transfer. A Proposal to Withdraw Water and to remove it from the Basin in any container greater than 5.7 gallons shall be treated under this Compact in the same manner as a Proposal for a Diversion. Each Party shall have the discretion, within its jurisdiction, to determine the treatment of Proposals to Withdraw Water and to remove it from the Basin in any container of 5.7 gallons or less.

#### **“Section 4.13. Exemptions.**

“Withdrawals from the Basin for the following purposes are exempt from the requirements of Article 4.

“1. To supply vehicles, including vessels and aircraft, whether for the needs of the persons or animals being transported or for ballast or other needs related to the operation of the vehicles.

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

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

“1. Notwithstanding any terms of this Compact to the contrary, with the exception of Paragraph 5 of this Section, current, New or Increased Withdrawals, Consumptive Uses and Diversions of Basin Water by the State of Illinois shall be governed by the terms of the United States Supreme Court decree in Wisconsin et al. v. Illinois et al. and shall not be subject to the terms of this Compact nor any rules or regulations promulgated pursuant to this Compact. This means that, with the exception of Paragraph 5 of this Section, for purposes of this Compact, current, New or Increased Withdrawals, Consumptive Uses and Diversions of Basin Water within the State of Illinois shall be allowed unless prohibited by the terms of the United States Supreme Court decree in Wisconsin et al. v. Illinois et al.

“2. The Parties acknowledge that the United States Supreme Court decree in Wisconsin et al. v. Illinois et al. shall continue in full force and effect, that this Compact shall not modify any terms thereof, and that

this Compact shall grant the parties no additional rights, obligations, remedies or defenses thereto. The Parties specifically acknowledge that this Compact shall not prohibit or limit the State of Illinois in any manner from seeking additional Basin Water as allowed under the terms of the United States Supreme Court decree in Wisconsin et al. v. Illinois et al., any other party from objecting to any request by the State of Illinois for additional Basin Water under the terms of said decree, or any party from seeking any other type of modification to said decree. If an application is made by any party to the Supreme Court of the United States to modify said decree, the Parties to this Compact who are also parties to the decree shall seek formal input from the Canadian Provinces of Ontario and Québec, with respect to the proposed modification, use best efforts to facilitate the appropriate participation of said Provinces in the proceedings to modify the decree, and shall not unreasonably impede or restrict such participation.

“3. With the exception of Paragraph 5 of this Section, because current, New or Increased Withdrawals, Consumptive Uses and Diversions of Basin Water by the State of Illinois are not subject to the terms of this Compact, the State of Illinois is prohibited from using any term of this Compact, including Section 4.9, to seek New or Increased Withdrawals, Consumptive Uses or Diversions of Basin Water.

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

“5. In the event of a Proposal for a Diversion of Basin Water for use outside the territorial boundaries of the Parties to this Compact, decisions by the State of Illinois regarding such a Proposal would be subject to all terms of this Compact, except Paragraphs 1, 3 and 4 of this Section.

“6. For purposes of the State of Illinois' participation in this Compact, the entirety of this Section 4.14 is necessary for the continued implementation of this Compact and, if severed, this Compact shall no longer be binding on or enforceable by or against the State of Illinois.

#### **“Section 4.15. Assessment of Cumulative Impacts.**

“1. The Parties in cooperation with the Provinces shall collectively conduct within the Basin, on a Lake watershed and St. Lawrence River Basin basis, a periodic assessment of the Cumulative Impacts of Withdrawals, Diversions and Consumptive Uses from the Waters of the Basin, every 5 years or each time the incremental Basin Water losses reach 50 million gallons per day average in any 90-day period in excess of the quantity at the time of the most recent assessment, whichever comes first, or at the request of one or more of the Parties. The assessment shall form the basis for a review of the Standard of Review and Decision, Council and Party regulations and their application. This assessment shall:

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

“b. Give substantive consideration to climate change or other significant threats to Basin Waters and take into account the cur-

rent state of scientific knowledge, or uncertainty, and appropriate Measures to exercise caution in cases of uncertainty if serious damage may result;

“c. Consider adaptive management principles and approaches, recognizing, considering and providing adjustments for the uncertainties in, and evolution of science concerning the Basin's water resources, watersheds and ecosystems, including potential changes to Basin-wide processes, such as lake level cycles and climate.

“2. The Parties have the responsibility of conducting this Cumulative Impact assessment. Applicants are not required to participate in this assessment.

“3. Unless required by other statutes, Applicants are not required to conduct a separate cumulative impact assessment in connection with an Application but shall submit information about the potential impacts of a Proposal to the quantity or quality of the Waters and Water Dependent Natural Resources of the applicable Source Watershed. An Applicant may, however, provide an analysis of how their Proposal meets the no significant adverse Cumulative Impact provision of the Standard of Review and Decision.

### **“ARTICLE 5**

#### **“TRIBAL CONSULTATION**

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

“1. In addition to all other opportunities to comment pursuant to Section 6.2, appropriate consultations shall occur with federally recognized Tribes in the Originating Party for all Proposals subject to Council or Regional Review pursuant to this Compact. Such consultations shall be organized in the manner suitable to the individual Proposal and the laws and policies of the Originating Party.

“2. All federally recognized Tribes within the Basin shall receive reasonable notice indicating that they have an opportunity to comment in writing to the Council or the Regional Body, or both, and other relevant organizations on whether the Proposal meets the requirements of the Standard of Review and Decision when a Proposal is subject to Regional Review or Council approval. Any notice from the Council shall inform the Tribes of any meeting or hearing that is to be held under Section 6.2 and invite them to attend. The Parties and the Council shall consider the comments received under this Section before approving, approving with modifications or disapproving any Proposal subject to Council or Regional Review.

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

### **“ARTICLE 6**

#### **“PUBLIC PARTICIPATION**

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

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

"2. The minutes of the Council shall be a public record open to inspection at its offices during regular business hours.

**"Section 6.2. Public Participation.**

"It is the intent of the Council to conduct public participation processes concurrently and jointly with processes undertaken by the Parties and through Regional Review. To ensure adequate public participation, each Party or the Council shall ensure procedures for the review of Proposals subject to the Standard of Review and Decision consistent with the following requirements:

"1. Provide public notification of receipt of all Applications and a reasonable opportunity for the public to submit comments before Applications are acted upon.

"2. Assure public accessibility to all documents relevant to an Application, including public comment received.

"3. Provide guidance on standards for determining whether to conduct a public meeting or hearing for an Application, time and place of such a meeting(s) or hearing(s), and procedures for conducting of the same.

"4. Provide the record of decision for public inspection including comments, objections, responses and approvals, approvals with conditions and disapprovals.

**"ARTICLE 7**

**"DISPUTE RESOLUTION AND ENFORCEMENT**

**"Section 7.1. Good Faith Implementation.**

"Each of the Parties pledges to support implementation of all provisions of this Compact, and covenants that its officers and agencies shall not hinder, impair, or prevent any other Party carrying out any provision of this Compact.

**"Section 7.2. Alternative Dispute Resolution.**

"1. Desiring that this Compact be carried out in full, the Parties agree that disputes between the Parties regarding interpretation, application and implementation of this Compact shall be settled by alternative dispute resolution.

"2. The Council, in consultation with the Provinces, shall provide by rule procedures for the resolution of disputes pursuant to this section.

**"Section 7.3. Enforcement.**

"1. Any Person aggrieved by any action taken by the Council pursuant to the authorities contained in this Compact shall be entitled to a hearing before the Council. Any Person aggrieved by a Party action shall be entitled to a hearing pursuant to the relevant Party's administrative procedures and laws. After exhaustion of such administrative remedies, (i) any aggrieved Person shall have the right to judicial review of a Council action in the United States District Courts for the District of Columbia or the District Court in which the Council maintains offices, provided such action is commenced within 90 days; and, (ii) any aggrieved Person shall have the right to judicial review of a Party's action in the relevant Party's court of competent jurisdiction, provided that an action or proceeding for such review is commenced within the time frames provided for by the Party's law. For the purposes of this paragraph, a State or Province is deemed to be an aggrieved Person with respect to any Party action pursuant to this Compact.

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

"b. Each Party may issue orders within its respective jurisdiction and may initiate actions to compel compliance with the provisions of its respective statutes and regulations adopted to implement the authorities contemplated by this Compact in accordance with the provisions of the laws adopted in each Party's jurisdiction.

"3. Any aggrieved Person, Party or the Council may commence a civil action in the relevant Party's courts and administrative systems to compel any Person to comply with this Compact should any such Person, without approval having been given, undertake a New or Increased Withdrawal, Consumptive Use or Diversion that is prohibited or subject to approval pursuant to this Compact.

"a. No action under this subsection may be commenced if:

"i. The Originating Party or Council approval for the New or Increased Withdrawal, Consumptive Use or Diversion has been granted; or,

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

"b. No action under this subsection may be commenced unless:

"i. A Person commencing such action has first given 60 days prior notice to the Originating Party, the Council and Person alleged to be in noncompliance; and,

"ii. Neither the Originating Party nor the Council has commenced and is diligently prosecuting appropriate enforcement actions to compel compliance with this Compact.

The available remedies shall include equitable relief, and the prevailing or substantially prevailing party may recover the costs of litigation, including reasonable attorney and expert witness fees, whenever the court determines that such an award is appropriate.

"4. Each of the Parties may adopt provisions providing additional enforcement mechanisms and remedies including equitable relief and civil penalties applicable within its jurisdiction to assist in the implementation of this Compact.

**"ARTICLE 8**

**"ADDITIONAL PROVISIONS**

**"Section 8.1. Effect on Existing Rights.**

"1. Nothing in this Compact shall be construed to affect, limit, diminish or impair any rights validly established and existing as of the effective date of this Compact under State or federal law governing the Withdrawal of Waters of the Basin.

"2. Nothing contained in this Compact shall be construed as affecting or intending to affect or in any way to interfere with the law of the respective Parties relating to common law Water rights.

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

"4. An approval by a Party or the Council under this Compact does not give any property rights, nor any exclusive privileges, nor shall it be construed to grant or confer any right, title, easement, or interest in, to or over any land belonging to or held in trust by a Party; neither does it authorize any injury to private property or invasion of private rights, nor infringement of federal, State or local laws or regulations; nor does it obviate the necessity of obtaining federal assent when necessary.

**"Section 8.2. Relationship to Agreements Concluded by the United States of America.**

"1. Nothing in this Compact is intended to provide nor shall be construed to provide, di-

rectly or indirectly, to any Person any right, claim or remedy under any treaty or international agreement nor is it intended to derogate any right, claim, or remedy that already exists under any treaty or international agreement.

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

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

**"Section 8.3. Confidentiality.**

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

"2. A Party may take measures, including but not limited to deletion and redaction, deemed necessary to protect any confidential, proprietary or commercially sensitive information when distributing information to other Parties. The Party shall summarize or paraphrase any such information in a manner sufficient for the Council to exercise its authorities contained in this Compact.

**"Section 8.4. Additional Laws.**

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

**"Section 8.5. Amendments and Supplements.**

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

**"Section 8.6. Severability.**

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

**"Section 8.7. Duration of Compact and Termination.**

"Once effective, the Compact shall continue in force and remain binding upon each and every Party unless terminated. This Compact may be terminated at any time by a majority vote of the Parties. In the event of such termination, all rights established under it shall continue unimpaired.

**"ARTICLE 9**

**"EFFECTUATION**

**"Section 9.1. Repealer.**

"All acts and parts of acts inconsistent with this act are to the extent of such inconsistency hereby repealed.

**"Section 9.2. Effectuation by Chief Executive.**

"The Governor is authorized to take such action as may be necessary and proper in his or her discretion to effectuate the Compact and the initial organization and operation thereunder.

**"Section 9.3. Entire Agreement.**

"The Parties consider this Compact to be complete and an integral whole. Each provision of this Compact is considered material to the entire Compact, and failure to implement or adhere to any provision may be considered a material breach. Unless otherwise noted in this Compact, any change or amendment made to the Compact by any Party in



its implementing legislation or by the U.S. Congress when giving its consent to this Compact is not considered effective unless concurred in by all Parties.

**"Section 9.4. Effective Date and Execution."**

"This Compact shall become binding and effective when ratified through concurring legislation by the states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio and Wisconsin and the Commonwealth of Pennsylvania and consented to by the Congress of the United States. This Compact shall be signed and sealed in nine identical original copies by the respective chief executives of the signatory Parties. One such copy shall be filed with the Secretary of State of each of the signatory Parties or in accordance with the laws of the state in which the filing is made, and one copy shall be filed and retained in the archives of the Council upon its organization. The signatures shall be affixed and attested under the following form:

"In Witness Whereof, and in evidence of the adoption and enactment into law of this Compact by the legislatures of the signatory parties and consent by the Congress of the United States, the respective Governors do hereby, in accordance with the authority conferred by law, sign this Compact in nine duplicate original copies, attested by the respective Secretaries of State, and have caused the seals of the respective states to be hereunto affixed this \_\_\_\_\_ day of (month), (year).": Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—*

(1) Congress consents to and approves the interstate compact regarding water resources in the Great Lakes—St. Lawrence River Basin described in the preamble;

(2) until a Great Lakes Water Compact is ratified and enforceable, laws in effect as of the date of enactment of this resolution provide protection sufficient to prevent Great Lakes water diversions; and

(3) Congress expressly reserves the right to alter, amend, or repeal this resolution.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Ohio (Ms. SUTTON) and the gentleman from North Carolina (Mr. COBLE) each will control 20 minutes.

The Chair recognizes the gentlewoman from Ohio.

GENERAL LEAVE

Ms. SUTTON. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

Ms. SUTTON. I yield myself such time as I may consume.

Mr. Speaker, this legislation gives congressional consent to the Great Lakes-St. Lawrence River Basin Water Resources Compact. Before I continue, I would like to commend the distinguished chairman of the Transportation and Infrastructure Committee, Mr. JAMES OBERSTAR, who sponsored the House version of this legislation, as well as the senior Senator from Michigan, CARL LEVIN, for their hard work in spearheading this effort. I would also like to thank the distinguished chairman of the Judiciary Committee, Congressman JOHN CONYERS, for his support.

Today, Congress considers this legislation pursuant to our duty in article I, section 10, clause 3 of the Constitution, the "compacts clause," to review and approve agreements between States or between States and foreign governments to ensure that they are consistent with the broader national interests.

In the case before us, there is no question that the compact designed and agreed to by eight States is in our national interest. The Great Lakes Compact will help to preserve and improve this important natural resource, our Great Lakes, for years to come. The Great Lakes are one of our greatest treasures, an important natural asset that we must never take for granted and that we must always protect.

With one-fifth of the world's fresh water, the Great Lakes attracted the early settlers to the region, and today nearly 33 million people live and work within the basin, spanning eight States: Minnesota, Wisconsin, Illinois, Indiana, Michigan, Pennsylvania, New York and my home State of Ohio.

Mr. Speaker, the Great Lakes are not only a source of drinking water, but they are also essential for recreation, jobs and the overall health of our economy. Lake Erie alone supports 240,000 jobs and \$5.8 billion in wages. The Great Lakes are also highways, moving goods, people and services throughout the region. In addition, the Great Lakes support a multi-billion dollar a year sport fishing and recreational boating industry, and also support travel and tourism throughout the region.

However, the Great Lakes are vulnerable to depletion. Each year, rainfall and snowmelt replenish only about 1 percent of the water in the basin. Uncontrolled and careless diversions of water could thus be highly detrimental to the health of the Great Lakes. This compact will bring an end to destructive diversions of water from the basin.

The purpose of this compact is to formalize cooperation among the Great Lakes States, to develop and implement regional goals and objectives for water conservation while preserving the States' flexibility regarding their water management programs.

New or increased diversions of water from the basin will be banned and community rights will be respected as long as appropriately rigorous standards are met. In addition, every 5 years the regional goals and objectives for water conservation will be reviewed to deal with any new issues that arise.

As is routinely the case, Mr. Speaker, Congress expressly reserves the right to alter, amend or repeal this resolution in the future and to strengthen the compact, if necessary.

The people of the eight States have worked diligently to craft this compact to preserve this vital resource, and it is urgent that we approve it now to ensure that our Great Lakes are here for future generations.

I urge all of my colleagues to support this important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. COBLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentlewoman from Ohio pretty thoroughly covered this already.

The compact we are called upon to approve today caps off years of effort. That effort has been undertaken by the Great Lakes States to address jointly the use of one of our Nation's greatest features, the abundant waters of the Great Lakes and the St. Lawrence River Basin.

This compact embodies important advances in the management of these extraordinary bodies of water. The States, users of these waters in the United States, and Canadian authorities that share interest in the basin, all support the compact.

Earlier this year, we passed H.R. 6577 to approve this compact. In all essential respects, Senate Joint Resolution 45 is identical to H.R. 6577. I am therefore pleased to support our adoption of the Senate resolution so that this important legislation can be passed and signed into law as soon as possible.

Mr. Speaker, I reserve the balance of my time.

Ms. SUTTON. Mr. Speaker, before I yield to the distinguished gentleman from Michigan, at this time I would like to insert into the RECORD correspondence between Representatives PETER VISCLOSKEY and DAVID HOBSON and Governor Jim Doyle, Chair of the Council of Great Lakes Governors. This correspondence clarifies the Council's intent and interpretation of section 4.11.2 of the Compact's decisionmaking standard relating to the scale and scope of impacts that would be deemed sufficiently significant such to preclude approval of a withdrawal proposal.

I would like to thank Representatives VISCLOSKEY and HOBSON for their dedicated efforts on this matter and their continued dedication to preserving our Great Lakes.

CONGRESS OF THE UNITED STATES,

HOUSE OF REPRESENTATIVES,

Washington, DC, August 25, 2008.

Hon. JIM DOYLE,

Chairman, Council of Great Lakes Governors,  
East Wacker Drive, Chicago, Illinois.

DEAR GOVERNOR DOYLE: We write regarding H.R. 6577, a measure to approve the Great Lakes-St. Lawrence River Basin Water Resources Compact.

It has been brought to our attention that there are concerns regarding the scale and scope of impacts considered in the Decision-Making Standard under Section 4.11.2 of H.R. 6577. As the House proceeds forward with action to approve the Compact, we are writing to clarify and confirm the interpretation of this provision.

As you are aware, as part of the criteria governing review and approval of proposals for water withdrawals, Section 4.11.2 of the Compact requires a demonstration that "Withdrawal or Consumptive Use will be implemented so as to ensure that the Proposal will result in no significant individual or cumulative adverse impacts to the quantity

and quality of the Waters and Water Dependent Natural Resources and the applicable Source Watershed." During the states' adoption of the Compact, a concern was raised in a number of jurisdictions regarding a potential ambiguity as to the scale of impacts that would preclude withdrawal approvals.

This issue is of particular importance, because interpreted improperly, this provision could thwart economic development and threaten existing operations seeking to expand. Because of the ambiguity in terms of how the definition of "Source Watershed" and Section 4.11.2 work together, the question has been raised as to whether the significance of impacts is to be judged based on impacts upon the overall Source Watershed, which is defined as the drainage area of each Great Lake, or can measurable impacts on flow within just a few hundred feet of a stream, which occurs with many withdrawals, be enough to preclude a project. If Section 4.11.2 is misread, it could become a serious impediment to the states' undertaking and approving economic development projects, which we are sure is not the Governors' intent.

On December 5, 2005, Sam Speck, Chair of the Working Group that drafted the Compact, indicated that the Working Group intended the term "Waters and Water Dependent Natural Resources" to refer to all waters of the Basin, and that the scope of impact consideration is to assure that "there be no significant adverse impacts to the Great Lakes-St. Lawrence River Basin as a whole" as well as no significant adverse impacts to the Source Watershed as a whole.

Several state legislatures, including Indiana, Ohio, and Pennsylvania, reflected this position in their respective legislation adopting the Compact. Those states included in their legislation provisions expressing and clarifying the intent of the legislatures in adopting Section 4.11.2 (see Indiana Senate Enrolled Act No. 45 of 2008 at Section 10; Ohio House Bill 416 (as adopted) at Section 1522.07(B); and Pennsylvania Act 43 of 2008 at Section 5(3)).

Consistent with Chairman Speck and the statements of legislative intent provided by the above states, we would respectfully request that you confirm that the following interpretation correctly expresses the understanding and view of the Council of Great Lakes Governors, as prime drafters and sponsors of the Compact, with respect to the scope of impact question:

1. Section 4.11.2 of the Great Lakes-St. Lawrence River Basin Water Resources Compact is intended 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 of the following:

- (a) The basin considered as a whole;
- (b) The applicable source watershed considered as a whole.

2. States may take into consideration, as part of the evaluation of reasonable use as provided in Section 4.11.5 of the Compact, 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.

3. As provided in Section 4.12.1 of the Compact, the Compact's standard is a minimum standard and that states may, as a matter of state law, adopt by state statutes, regulations or other means relating to the assessment and consideration of impacts which are more stringent than the decision-making standard set forth in the Compact.

We would appreciate your written response confirming the able interpretation, which we would intend be reflected in the legislative history of the Compact as the House proceeds. We look forward to working with you and the other Council members in continuing efforts to approve the Compact before the end of this session.

Thank you for your consideration of this request. Do not hesitate to let us know if you have any questions or need additional information.

Sincerely,

PETER J. VISCLOSKY,  
Member of Congress.

DAVID L. HOBSON,  
Member of Congress.

COUNCIL OF  
GREAT LAKES GOVERNORS,  
Chicago, IL, August 28, 2008.

Hon. PETER J. VISCLOSKY,

Rayburn HOB,  
Washington, DC.

Hon. DAVID L. HOBSON,  
Rayburn HOB,  
Washington, DC.

DEAR REPRESENTATIVE VISCLOSKY AND REPRESENTATIVE HOBSON: Thank you for your letter dated August 25, 2008 regarding H.R. 6577. The interpretation of Section 4.11.2 of the Great Lakes-St. Lawrence River Basin Water Resources Compact included in your letter is consistent with the Great Lakes Governors' interpretation of Section 4.11.2.

Thank you again for your commitment to ensure that the Great Lakes are sustainably managed for the benefit of generations to come. If we can be of assistance as our shared efforts move forward, please do not hesitate to contact me or David Naftzger, Executive Director of the Council of Great Lakes Governors.

Sincerely,

JIM DOYLE,  
Governor of Wisconsin,  
Chair, Council of Great Lakes Governors.

Mr. Speaker, I yield 4 minutes to the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. I thank the gentleman for yielding time.

Mr. Speaker, I rise in opposition to the Great Lakes-St. Lawrence River Basin Water Resource Compact. I am deeply concerned that this compact would allow Great Lakes water to be defined as a product. By allowing water to be defined as a product, the compact would subject the Great Lakes to international trade agreements, such as the North America Free Trade Agreement or the World Trade Organization.

There is also no language in the compact that recognizes the Great Lakes waters held in trust. The public owns the water of the Great Lakes, and anything we pass should preserve this.

While the original intent of the Great Lakes Compact was to protect our water from diversion, the compact that the States have sent to Congress may unintentionally have the opposite effect and set a precedent that would open the door to diversions.

The Great Lakes Governors have spent more than 3 years addressing the local and State implications of the compact. Unfortunately, we have not done the same deliberative process. We have spent less than 20 legislative days since the introduction of this legislation. We have had no hearings in the

House to consider the Federal or international implications. We are rushing to a vote when one of our Nation's most precious natural resources, the Great Lakes, is at stake.

Before we ratify the Great Lakes Compact, the following questions must be fully investigated. How does the compact's exemption of water in a container smaller than 5.7 gallons affect the Federal prohibition on diversions of water under the Water Resources Development Act?

Will creating a definition of Great Lakes water as a product subject it to international trade law or agreements such as NAFTA?

Would actions taken by the Great Lakes States to protect the Great Lakes against efforts by international commercial entities who seek to privatize the Great Lakes ever be subject to claims under the general agreements on tariffs and trade or to WTO?

I have asked these questions of the International Joint Commission, the United States Trade Representative and the Department of State before Congress adjourned for the August recess. While these agencies have acknowledged my request, they were unable to provide me with any substantive responses. This alone should be reason enough to vote on this legislation until we have the answers to my questions.

I cannot in good conscience vote to approve legislation that may unintentionally open the Great Lakes to diversions through privatization, commercialization and exportation. It is imperative that we take our time to ensure that the legal protections we seek to enact and preserve to restore the quality and quantity of the Great Lakes water be done properly.

I urge my colleagues to vote "no" on Senate Joint Resolution 45 so that we may fully address the questions and pass a compact that protects the Great Lakes.

In my 16 years here in the House of Representatives, I have fought to protect these Great Lakes. Why are we rushing now to do a compact that we have not had time to examine, when the State Department cannot answer our questions, when we don't have the answers?

After we pass this legislation, it will be too late to say, oh, we might have made a mistake here. Let's not open up our Great Lakes water to commercialization and to international agreements we have no control over. Let's get the answers before we pass this legislation.

Mr. COBLE. Mr. Speaker, I yield back the balance of my time.

Ms. SUTTON. I thank the gentleman from Michigan for his passionate statement.

We have specifically retained the right to amend and alter the compact. I would just also mention that we have worked to effectively address the gentleman's concerns in the committee report.

Mr. STUPAK. Mr. Speaker, will the gentlewoman yield?

Ms. SUTTON. I yield to the gentleman from Michigan.

Mr. STUPAK. What assurance do we have that if we seek to amend the compact after this is passed that the States are going to go along with us?

Ms. SUTTON. I think we have the assurances that the States will act reasonably in their best interests and our best interests as a region.

Mr. STUPAK. But once the law is passed, you can't go back and amend it, unless the States take the initiative, because under WRDA and what you are verifying here, the States would have control over it. So even if the Congress wanted us to change the compact because they are diverting our water, we can't do it unless the States act first. You are giving up the right. You are ratifying this compact, and the only way you can only come back into this compact is through the States, and not necessarily the Federal Government.

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Ms. SUTTON. Well, I respectfully disagree with the gentleman. We are not really giving up our rights. This has always been a joint effort with a specific responsibility left with the States, a specific responsibility left with this Congress, and we retained this.

Mr. STUPAK. Four of the five Great Lakes are international bodies of water where the States have no say over it. That's why the Federal Government must ratify it. If we continue to ratify this compact without getting our answers, you cannot go back and reopen the international agreement unless both sides agree, including the eight States and the two provinces of Canada.

Ms. SUTTON. I thank the gentleman for the point that he raises. I believe that the agreement and the committee report language effectively addresses that concern.

Mr. STUPAK. I have one other inquiry: Why are we rushing this compact? There is no end date that it has to be done before the end of the year.

It's an open-ended commitment. Why can't we wait? What's the rush?

Ms. SUTTON. I will take back my time, and I will answer the gentleman's question.

Mr. Speaker, our Great Lakes' water is currently, at present, at risk to be carelessly diverted from our basin, and that is why action is so important here today. If we allow that to happen, this water will never return.

All eight Great Lakes States have agreed to this compact. I would like to thank Ohio's Governor Ted Strickland for guiding this essential compact through the Ohio State House and Senate.

A stretch of Lake Erie shoreline touches my congressional district, and Lake Erie contributes over \$9 billion in tourism and travel revenue to our State's economy. In my district we al-

ready utilize Lake Erie commercially through Lorain Harbor, and we need this compact to protect our Great Lakes, our water, our source of recreation, our jobs and our economy, and we need this compact now.

For the overall health of our Great Lakes and our region, we must pass this compact today to protect our Great Lakes and ensure that future generations will have this great resource. I urge my colleagues to support the Great Lakes compact.

Mr. EHLERS. Mr. Speaker, I rise today in strong support of S.J. Res. 45, the Great Lakes—St. Lawrence River Basin Water Resources Compact. This resolution represents the culmination of efforts, which started nearly a decade ago, to create a framework to govern water withdrawals from the Great Lakes Basin.

The Great Lakes comprise the largest source of freshwater in the world—20 percent of the Earth's total and 95 percent of the surface freshwater in the United States—and they provide drinking water, transportation and recreation to tens of millions of people in the United States and Canada. Although the Great Lakes contain copious amounts of fresh water, less than one percent of the water in the Great Lakes is renewed every year through rain, snow melt, and groundwater recharge, with the remaining ninety-nine percent remaining in the lakes each year. In other words, the Great Lakes are a non-renewable resource that is currently at jeopardy from large-scale water diversions outside the Great Lakes Basin.

The catalyst for the creation of a Great Lakes Compact came in 1998 when the government of Ontario granted a permit to a private Canadian company to ship up to 160 million gallons of water per year to Asia. Thankfully, the public outcry was so strongly opposed that the deal died.

In the wake of this incident, Congress included language in the Water Resources Development Act (WRDA) of 2000 which prohibited the export of Great Lakes water from the basin unless the request for withdrawal received unanimous approval of all eight Great Lakes governors. WRDA 2000 also encouraged the Great Lakes states, in consultation with Canada, to develop and implement a compact that would govern withdrawals of water from the Great Lakes Basin.

In 2005, the 8 Great Lakes governors, in collaboration with the Canadian provinces of Ontario and Quebec, local governments, and other stakeholders, endorsed the Great Lakes Compact and referred it to the state legislatures for consideration.

On July 9, 2008, my home state of Michigan became the last Great Lake state to approve the Compact—sending it to Congress for final ratification.

The Senate passed S.J. Res. 45 by unanimous consent on August 1 and the House Judiciary Committee approved a similar House version (H.R. 6577) by voice vote on July 30. I am an original cosponsor of H.R. 6577.

The Great Lakes Compact prohibits new or increased out-of-basin, large-scale water diversions except under special circumstances, and it requires all of the Great Lakes states to develop water conservation and efficiency programs.

With respect to small-scale water diversions (containers less than 5.7 gallons), such as for

bottled water, beer, and canned foods, the Compact allows states to choose how to regulate these small transfers. For instance, Michigan regulates bottled water under the Compact by requiring producers to obtain a state permit for new or increased water withdrawals of more than 200,000 gallons per day. Under Michigan law, a permit may be granted if, among other requirements, there are no individual or cumulative adverse impacts, the water withdrawal is reasonable under common law principles, and the producer has certified that it is in compliance with water conservation measures.

Although some have voiced concern over this "bottled water exemption," I believe these small-scale withdrawals are better left to the states to regulate. In addition, much of the bottled water will likely remain the Great Lakes watershed, and changing the agreement now would mean the entire process must start over. With water predicted to become the oil of the future, it is imperative that we pass this agreement now so that we ensure the water in the Great Lakes Basin stays within the basin.

I hope my colleagues will join me, the Great Lakes governors, state legislatures, the U.S. Senate, and President Bush in supporting the Great Lakes Compact. Vote for S.J. Res. 45.

Mr. OBERSTAR. Mr. Speaker, I rise in strong support of S.J. Res. 45, the Great Lakes—St. Lawrence River Basin Water Resources Compact.

In July, I, together with the gentleman from Michigan (Mr. CONYERS, Jr.), Chairman of the Committee on the Judiciary, the gentleman from Ohio (Mr. LATOURETTE), and the gentleman from Michigan (Mr. EHLERS), introduced H.R. 6577, the "Great Lakes—St. Lawrence River Basin Water Resources Compact", the House companion bill for the legislation that we consider today.

H.R. 6577 received the bipartisan support of almost 50 Great Lakes Members and the Committee on the Judiciary ordered the bill reported favorably to the House on July 30. However, to expedite implementation of the Compact, the House agreed to consider the Senate companion legislation (S.J. Res. 45), which the other body passed on August 1. Today, we hope to complete the long process for implementation of the Great Lakes—St. Lawrence River Basin Water Resources Compact by sending this "consent of Congress" directly to the President, where he has said he will sign it. I strongly urge my colleagues to support this important legislation for the protection of the Great Lakes for current and future generations.

Mr. Speaker, the Great Lakes are national and international treasures, serving as both the nation's largest fresh water resource and one of the largest systems of fresh water on earth—containing nearly 20 percent of the world supply. Formed by melting glaciers 10,000 to 12,000 years ago, the Great Lakes contain enough fresh water to cover the entire landmass of the continental United States to a depth of almost 10 feet.

Yet, despite their massive volume, the Lakes' water is a fragile resource. Rainfall and snowmelt replenish only about one percent of the water in the Great Lakes each year, with the remaining 99 percent of the volume being carried over from year-to-year. It is this unique circumstance that requires the nation, and

Congress, to be vigilant in protecting the waters of the Great Lakes for the use and sustainability of the environmental, economic, and public health of the Great Lakes Basin.

The Committee on Transportation and Infrastructure has been integral in protecting the waters of the Great Lakes from water diversions. In the Water Resources Development Act of 1986 ("WRDA 1986"), the Committee required that each of eight Great Lakes States consent to any diversion of water from the Great Lakes Basin. WRDA 1986 prohibited any diversion of Great Lakes water by any State, Federal agency, or private entity for use outside the Great Lakes Basin without the consent of each of the eight Governors of the Great Lakes States.

Unfortunately, however, the waters of the Great Lakes are still at risk.

In 1998, Congress learned of a plan, approved by the Canadian province of Ontario, to export up to 160 million gallons of water from Lake Superior for sale to Asia. After this incident, a decision was made by the Governors of the eight Great Lakes States and Congress to strengthen Federal and interstate protections of Great Lakes waters.

In the Water Resources Development Act of 2000, the Committee on Transportation and Infrastructure strengthened the prohibition on diversions of Great Lakes waters by explicitly prohibiting exports, and "encourage[d] the Great Lakes, in consultation with the Provinces of Ontario and Quebec, to develop and implement a mechanism that provides a common conservation standard embodying the principles of water conservation and resource improvement for making decisions concerning the withdrawal and use of water from the Great Lakes Basin."

This "common conservation standard" is embodied in the Great Lakes—St. Lawrence River Basin Water Resources Compact ("Compact"), as proposed for the consent of Congress in S.J. Res. 45. The protections contained in the Compact are consistent with the underlying prohibition of diversions and exports of Great Lakes water without consent of all eight Great Lakes States under section 1109 of WRDA 1986. In addition, the Compact should be viewed as supplementary to current laws and regulations, and as an effort by the eight Great Lakes States and Congress to strengthen protections already in place.

First, the Compact establishes that "all new or increased diversions of Great Lakes waters are prohibited," except within the limited exceptions contained in the Compact.

The Compact also requires each of the Great Lakes States to regulate any proposed new or increased withdrawals of Great Lakes water so as to not "physically impact" the waters and water-dependent natural resources of the Basin, including the physical, chemical, and biological integrity of the Basin watersheds.

In addition, the Compact establishes a process for the inventory, registration, and reporting of Great Lakes water withdrawals, diversions, and consumptive uses within the Basin.

With respect to small-scale water uses, such as bottled water, beer, and canned goods, the Compact allows individual States to choose how to regulate smaller transfers of water in products. For example, the State of Michigan chose to regulate bottled water under the Compact by requiring producers to obtain a permit for new or increased water

withdrawals of more than 200,000 gallons per day. Under Michigan law, a permit may be granted if, among other requirements, there are no individual or cumulative adverse impacts, the water withdrawal is reasonable under state common law principles, and the producer has certified that it is in compliance with water conservation measures. This state program ensures that bottled water proposals receive careful scrutiny.

It is time for the U.S. House of Representatives to join with the Governors and State legislatures of all eight Great Lakes States, the U.S. Senate, and the administration in support of the Great Lakes—St. Lawrence River Basin Water Resources Compact.

I strongly urge my colleagues to join me in supporting S.J. Res. 45.

Mr. LEVIN. Mr. Speaker, I rise in strong support of the legislation before the House to grant congressional approval of the Great Lakes Compact.

Passage of this legislation today is essential to the health of the Great Lakes. With the approval of the Compact, at long last we will close the door to bulk diversion of Great Lakes water. The Compact also establishes a comprehensive management framework to protect this shared resource and requires Great Lake states to control their own large-scale water use.

Some will say that the agreement does not go far enough and that Congress should hold off approving the Compact until changes are made. We have to be careful not to let the perfect become the enemy of the good. The agreement before us is the product of years of effort and enjoys broad support from all eight Great Lakes states, the environmental community, conservation groups, and other key stakeholders. The region has come together behind this plan as the best way to protect the Great Lakes. It is now time for Congress to act.

There is no question that we're in a much stronger position to protect the Great Lakes with the Compact than without it. I urge the House to join me in supporting this vital legislation.

Mr. SUTTON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Ohio (Ms. SUTTON) that the House suspend the rules and pass the Senate joint resolution, S.J. Res. 45.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. STUPAK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

#### NATIONWIDE MORTGAGE FRAUD TASK FORCE ACT OF 2008

Ms. SUTTON. Mr. Speaker, I move to suspend the rules and pass the bill

(H.R. 6853) to establish in the Federal Bureau of Investigation the Nationwide Mortgage Fraud Task Force to address mortgage fraud in the United States, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6853

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Nationwide Mortgage Fraud Coordinator Act of 2008".

#### SEC. 2. ESTABLISHMENT IN THE FEDERAL BUREAU OF INVESTIGATION OF THE NATIONWIDE MORTGAGE FRAUD COORDINATOR.

(a) ESTABLISHMENT.—The Director of the Federal Bureau of Investigation shall assign the Chief of its Financial Crimes Section, Criminal Investigative Division, in addition to other assigned duties, to be the Nationwide Mortgage Fraud Coordinator.

(b) DUTIES OF THE COORDINATOR.—The Nationwide Mortgage Fraud Coordinator shall oversee all Federal Bureau of Investigation activities related to the investigation of mortgage fraud, including the following:

(1) Establishing and operating regional task forces, consisting of the voluntary participation of Federal, State, and local law enforcement and prosecutorial agencies, to organize initiatives to investigate mortgage fraud, including initiatives to enforce all pertinent Federal and State mortgage fraud laws.

(2) Providing training to Federal, State, and local law enforcement and prosecutorial agencies with respect to mortgage fraud, including related Federal and State laws.

(3) Collecting and disseminating data with respect to mortgage fraud, including, to the extent practicable, Federal, State, and local data relating to mortgage fraud investigations and prosecutions.

(4) Preparing an annual report describing the Federal Bureau of Investigation's efforts to combat mortgage fraud and the results of these efforts. This report shall be submitted by the Federal Bureau of Investigation to Congress. The initial report shall be submitted no later one year after the date of the enactment of this Act.

(5) Making recommendations to the Director as to the need for resources to combat mortgage fraud.

(6) Performing other duties as assigned that are related to the investigation and prosecution of mortgage fraud.

(c) OPTIONAL FUNCTIONS.—The Nationwide Mortgage Fraud Coordinator shall have the following optional responsibilities:

(1) Establishing a toll free hotline and other information systems for—

(A) receiving reports of mortgage fraud;

(B) providing the public with access to information and resources with respect to mortgage fraud; and

(C) directing reports or allegations of mortgage fraud to the appropriate Federal, State, or local law enforcement and prosecutorial agency, including any appropriate regional task force.

(2) Creating a database with respect to suspensions and revocations of mortgage industry licenses and certifications to facilitate the sharing of such information by States.

(d) OPTIONAL RESPONSIBILITY OF THE DEPARTMENT OF JUSTICE.—The Department of Justice, upon consideration of any recommendations by the Nationwide Mortgage Fraud Coordinator, may—

(1) propose legislation to Federal, State, and local legislative bodies to assist in the detection, investigation, and prosecution of