



**GREAT LAKES—ST. LAWRENCE RIVER WATER RESOURCES REGIONAL  
BODY**

**RESOLUTION #29— ADOPTION OF GREAT LAKES-ST. LAWRENCE  
WATER RESOURCES REGIONAL BODY PROCEDURES**

WHEREAS, on December 13, 2005, the Governors of the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio and Wisconsin, the Commonwealth of Pennsylvania, and the Premiers of Ontario and Québec signed the *Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement* (“Agreement”); and,

WHEREAS, Chapter 4 of the Agreement came into force on December 13, 2005, pursuant to Article 709 paragraph 1h of the Agreement; and,

WHEREAS, Article 400 paragraph 1 of the Agreement established the *Great Lakes—St. Lawrence River Water Resources Regional Body* (“Regional Body”) composed of the Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin, and the Premiers of Ontario and Québec, ex officio; and,

WHEREAS, Article 400 paragraph 2.i. of the Agreement states in part that the Regional Body shall undertake the duty to “[d]evelop guidance for the implementation of the Standard and the Exception Standard, and in particular the review of a Proposal [and] the preparation of an Application...”; and

WHEREAS, Article 401 paragraph 1 of the Agreement states that “The Regional Body may establish its own administrative practices and procedures.”; and

WHEREAS, on September 1, 2017 the Regional Body jointly created with the Great Lakes St. Lawrence Water Resources Council a Procedures Update Team charged with, among other things, creating Regional Body Procedures for the Regional Body’s consideration; and,

WHEREAS, on September 10, 2018, the Regional Body issued draft procedures, thereafter conducted a 30-day public comment period, and has considered those comments received when developing Regional Body Procedures for adoption.

Draft—For Discussion Purposes Only  
November 6, 2018

NOW THEREFORE BE IT RESOLVED THAT the Regional Body approves and adopts as guidance the Regional Body Procedures dated December 6, 2018, and attached to this Resolution as Attachment “A.”

BE IT FURTHER RESOLVED THAT the Regional Body approves and adopts as guidance the Sequence of Events for Consideration of Proposals for Exceptions to the Prohibition on Diversions that are subject to Regional Review dated December 6, 2018, and attached to this Resolution as Attachment “B.”

BE IT FINALLY RESOLVED THAT these Regional Body Procedures shall replace and supersede in their entirety the interim procedures adopted by the Regional Body on June 10, 2010.

## **Great Lakes—St. Lawrence River Water Resources Regional Body**

### **Procedures**

The definitions in Part I and the policies and procedures outlined in Part II herein are intended to supplement existing requirements in the Great Lakes—St. Lawrence River Sustainable Basin Water Resources Agreement (Agreement). Nothing in Parts I or II shall affect regulatory requirements. The Procedures in Parts I and II are not an adjudication or a regulation. There is no intent on the part of the Regional Body to give these Parts that weight or deference. Parts I and II herein establish the framework within which the Regional Body will exercise its administrative discretion in the future. The Regional Body reserves the discretion to deviate from these Procedures set forth in Parts I and II herein if circumstances warrant.

#### **Table of Contents**

#### **Part I. Definitions**

Section 100 Definitions

#### **Part II. Review of Exceptions to the Prohibition of Diversions**

Section 200 Application

Section 200.1 Purpose

Section 200.2 Preliminary Consultations

Section 200.3 Originating Party Powers and Duties; Applicant’s Submission to Originating Party

Section 200.4 Submission of Application to Regional Body

Section 200.5 Consideration of regionally significant or potentially precedent setting Proposals.

Section 200.6 Contents of Application

Section 200.6.1 Contents of Application for Regional Review for a “Straddling Communities” Exception to the Prohibition against Diversions

Section 200.6.2 Contents of Application for Regional Review for a “Intra-Basin Transfer” Exception to the Prohibition against Diversions

Section 200.6.3 Contents of Application for Regional Review for a “Straddling County” Exception to the Prohibition against Diversions

Section 200.7 Notice of Receipt of Application; Technical Reviews

Section 200.8 Federally recognized Tribes in the U.S. as well as First Nations and provincially recognized Métis communities in Canada Notice and Involvement

Section 200.9 General Notice and Opportunity to Comment

Section 201 Process for Review of and Meetings on Proposals  
Section 201.1 Public Meetings on Proposals  
Section 201.2 Left Intentionally Blank  
Section 201.3 Optional Joint Public Meeting  
Section 201.4 Process for Review of Proposals; Declaration of Finding

## **Part I. DEFINITIONS.**

### **Section 100. Definitions.**

1. The standard definitions set forth in Article 103 of the Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement shall apply to these Procedures.
2. “Application” or “Application to approve a Proposal” means the full Application package seeking approval of the Proposal for which Regional Review is undertaken.
3. “Agreement” means the Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement.
4. “Compact” means the Great Lakes – St. Lawrence River Basin Water Resources Compact, Pub. L. 110-342, 122 Stat. 3739 (2008).
5. “Compact Council” or “Council” means the Great Lakes – St. Lawrence River Basin Water Resources Council.
6. “Executive Director” means the Executive Director of the Regional Body unless otherwise indicated.
7. “Member” means the Governor or Premier of a Party to the Agreement.
8. “Regional Body” means the Great Lakes – St. Lawrence River Water Resources Regional Body.
9. “Secretariat” means the Executive Director and other administrative staff hired or contracted by the Regional Body.
10. All references to Articles of the Agreement are to the version of the Agreement signed by the Governors of the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio and Wisconsin, the Commonwealth of Pennsylvania, and the Premiers of Ontario and Québec on December 13, 2005.

## **Part II. Review of Exceptions to the Prohibition of Diversions.**

### **Section 200. Application.**

#### **Section 200.1. Purpose.**

The purpose of this Part is to set forth procedures governing Applications required by Article 201, as well as for Regional Review of regionally significant or potentially precedent setting Proposals as set forth in Article 502 Paragraph 2 of the Agreement.

#### **Section 200.2. Preliminary Actions Prior to the Submission of an Application**

An Originating Party may, prior to submission of an Application for Regional Review, request a preliminary consultation with the Secretariat or the representatives of the Parties’

agencies regarding preliminary plans for any Proposal that is or may be subject to Regional Review. The Originating Party may include the Applicant in any such preliminary consultations.

**Section 200.3. Originating Party Powers and Duties; Applicant's Submission to Originating Party.**

1. The Applicant initiates the review process by submitting to the Originating Party an Application to approve a Diversion in such manner and with such accompanying information as the Originating Party may require.
2. Upon receipt of an Application to review a Diversion, the Originating Party notifies the other Parties and determines whether the Diversion addressed in the Application is a Proposal subject to Regional Review or Council approval. If it determines that the Diversion is subject to Regional Review under Article 201 the Agreement, the Originating Party notifies the public and federally recognized Tribes as well as First Nations and provincially recognized Métis communities in Canada in accordance with relevant State or Provincial law that it received the Application and that the Application is subject to Regional Review, or Regional Review and Council approval.
3. If the Application is subject to Regional Review, the Originating Party examines whether the Application contains sufficient information to determine whether the Proposal does or does not meet the relevant criteria in the Agreement. If the Application does not contain the information requested from the Applicant in Section 200.6 of these Procedures and any additional information that the Originating Party concludes is required to evaluate the Application, the Originating Party obtains the missing information from the Applicant.

**Section 200.4. Submission of Application to Regional Body.**

1. If it concludes that an Application to approve a Proposal is subject to the review of the Regional Body under the Agreement, the Originating Party submits the Application to the Regional Body in accordance with Chapter 5 of the Agreement for review. The Applicant may not submit an Application directly to the Regional Body for their review. Regardless, the original Applicant (and not the Originating Party) remains the Applicant throughout the process.
2. No Application should be submitted to the Regional Body unless it is administratively complete, *i.e.* all information and documents, including information to be included as part of the Application pursuant to Section 200.6 of these Procedures, are included in such Application, and unless the Originating Party's Technical Review needed to evaluate whether the Proposal meets the Standard of Review and Decision is complete and attached to the Application.
3. The Originating Party submits 1 copy of the Application to the Executive Director of the Regional Body. The Originating Party also submits the Application to the Executive Director in a common electronic format that allows public accessibility (e.g. Adobe Acrobat PDF format), which electronic version will be forwarded to the Regional Body members by the Executive Director.

**Section 200.5 Consideration of regionally significant or potentially precedent setting Proposals.** RESERVED

**Section 200.6. Contents of Application.**

**Section 200.6.1. Contents of Application for Regional Review for a “Straddling Communities” Exception to the Prohibition against Diversions.**

This section applies to Applications for an exception to the general prohibition against Diversions (Article 200, paragraph 1 of the Agreement) where the underlying Proposal is to transfer Water to a Straddling Community<sup>1</sup> and such Proposal will result in a New or Increased Consumptive Use of 5 million gallons per day (or 19 million litres per day) or greater average over any 90-day period (see Article 201, Paragraph 1 of the Agreement).

Only Proposals for Diversion of Water where the water so transferred shall be used solely for Public Water Supply Purposes within a Straddling Community will be considered under this Section (see Article 201, Paragraph 1 of the Agreement).

Only the Originating Party may forward Applications to the Regional Body. Applications may not be submitted directly to the Regional Body by the Applicant, but rather must be submitted to the Originating Party.

Any information requested by these Procedures that was not included in the original Application to the Originating Party should be added as an attachment to the original Application as appropriate.

If applicable or necessary, the Applicant should provide a table of contents or index indicating where in the Application the information in response to Sections B and C below is provided. Responses to Section A, and brief descriptions of the information requested in B and C, should be provided as a cover memo.

A. **Basic Information.** All Applications should include, but not be limited to, the following information:

1. *Information about the Applicant.*
  - a. Name of Applicant;
  - b. Mailing address of Applicant;
  - c. Name of contact person for Application;
  - d. Applicant contact’s phone number; and,
  - e. Applicant contact’s email address.
  - f. The entity or entities that are participants or otherwise involved in implementing any component of the Proposal, including but not limited to any entity or

---

<sup>1</sup> “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 date set forth in paragraph 2 of Article 709, is partly within the Basin or partly within two Great Lakes watersheds.

“County” means the largest territorial division for local government in a State. In Québec, County means a regional county municipality (municipalité régionale de comté - MRC). The County boundaries shall be defined as those boundaries that exist as of the signing date of the Agreement (December 13, 2005). (Article 103 of the Agreement.)

Attachment A  
December 6, 2018

entities other than the Applicant that will Withdraw the Water, return Water to the Great Lakes – St. Lawrence River Watershed, etc. Information on these entities should include:

- i. Name of entity;
- ii. Mailing address of entity;
- iii. Name of contact person;
- iv. Entity contact's phone number; and
- v. Entity contact's email address.

[Ref: Article 103 of the Agreement (“Applicant” definition)]

2. *Identification of the Originating Party, including any and all government offices or partners, the mailing address of the same, the name of the individual authorized to act for the Originating Party, and any other points of contact on behalf of the Originating Party.*

3. *Identification of the specific Exception to the Prohibition of Diversions being applied for.*

Please note in the Application that the Applicant is seeking an Exception to the Prohibition Against Diversions pursuant to Article 201 Paragraph 1 of the Agreement, entitled “Straddling Communities.” In addition, please indicate whether the Straddling Community:

- a. Straddles the Basin divide; or,
- b. Straddles the divide of two watersheds of the Basin.

[Ref: Article 201 of the Agreement]

4. *Timing of Additional Applications.*

Provide the date of any previous Applications for the Straddling Community made to the Originating Party within the past 10 years and the daily volume of the Water Withdrawal, Consumptive Use or Diversion approved, as applicable. Diversions, Consumptive Uses and Withdrawals that constitute a baseline pursuant to Article 207, Paragraph 1 of the Agreement should not be included in response to this section.

[Ref: Article 207 Paragraph 2 of the Agreement]

5. *Source of the Withdrawal and location of the Diversion.*

Provide the following:

- a. Description of the location and source of the Withdrawal. Alternative locations may also be identified, with the preferred location indicated. If multiple wells or pump sites are to be used, provide information for them all.
- b. To the extent that the local entity that will be making the Withdrawal is not the Applicant, a demonstration that the local entity has sufficient withdrawal capacity to service the Applicant's needs and is willing to negotiate a purchase contract with the Applicant.

Attachment A  
December 6, 2018

- c. A map or photo of the area identifying the Source Watershed<sup>2</sup> and proposed location of the Diversion, together with a description of the area that is proposed to receive the Diverted Water, location of the return flow and water supply service area.
  - d. An identification of the Source Watershed. Specify if the source is a groundwater source (and if so, indicate if confined or unconfined), or surface water source (if so, indicate the name of the lake, river, or stream).
6. *Total volume of the New or Increased Diversion and associated Consumptive Use*<sup>3</sup>. Identify:
- a. The total maximum volume of the Diversion and associated Consumptive Use over the next 25 years (or the time period required by the Originating Party) as expressed in millions of gallons per day or millions of litres per day averaged over a calendar year as well as over the peak 90 day period during a calendar year.
  - b. Information regarding whether the proposed use of water transferred across the basin or watershed boundary solely for Public Water Supply Purposes would be continuous, seasonal or temporary.
  - c. The location of the point of measurement of the Diversion, and the technical method to be used for measuring the rate of the Diversion.
  - d. The total volume of any existing Diversion and Consumptive Use listed pursuant to Article 207, Paragraph 1 of the Agreement that this Proposal will increase; or, the total volume of any previously approved Diversion that this Proposal will increase, as applicable.

Unless otherwise noted, all rates and volumes should be expressed in millions of gallons and litres per day.

7. *Originating Party Technical Assessments.*

Any technical assessments, including the Technical Review, made by the Originating Party should be included in the Application package.  
[Ref: Article 505 Paragraph 1 of the Agreement]

8. *Additional materials from the Originating Party's Administrative Record as appropriate.* The Originating Party should also forward with the Application any other documents or materials used or developed during the Originating Party's review of the Proposal that the Originating Party determines may assist the

---

<sup>2</sup> "Source Watershed" as defined in the Agreement 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 Watershed 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.

<sup>3</sup> "Consumptive Use" as defined in the Agreement 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.

Regional Body during its review, including any transcript or summary of any consultation that has occurred with federally recognized Tribes as well as First Nations and provincially recognized Métis communities in Canada.

- B. Exception Standard Criteria. Applications that are required to meet the Exception Standard criteria should include information to show that the Proposal meets the following Exception Standard criteria contained in Article 201 Paragraph 4 of the Agreement.
1. *The need for all or part of the Exception [Diversion] cannot be reasonably avoided through the efficient use and conservation of existing water supplies.*  
Applications should include a narrative describing the need for the New or Increased Diversion. This description should include an analysis of the efficiency of current water uses, including the application of Environmentally Sound and Economically Feasible Water Conservation Measures. Such analysis may either be one that the Applicant previously submitted to the Originating Party or creates and submits to the Originating Party for forwarding to the Regional Body.  
[Ref: Article 201 Paragraph 4.a. of the Agreement]
  2. *The Exception [Diversion] will be limited to quantities that are considered reasonable for the purposes for which it is proposed.*  
Applications should include a narrative explaining why the quantities requested in Section A.6.a above are considered reasonable for the purposes for which the Exception is proposed (for example, population projections). To that end, the Application should also include a Water use plan. The plan should include: water use and population projections to support the term and daily volumes requested for the time period required by the Originating Party for water use plans, or up to 25 years if no time period is set by the Originating Party; a description of the capacity of the withdrawal, treatment and distribution portions of the system; an assessment of the water use savings of current and proposed water conservation and efficiency programs.  
[Ref: Article 201 Paragraph 4.b. of the Agreement]
  3. *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 outside the Basin may be used to satisfy any portion of this criterion except if it:*
    - a. *Is part of a water supply or wastewater treatment system that combines water from inside and outside of the Basin;*
    - b. *Is treated to meet applicable water quality discharge standards and to prevent the introduction of invasive species into the Basin;*The Application should include a description of how the Water will be returned. This description should include:
    - a. An explanation of how and when the Water will be returned. To the extent the local entity that will be discharging the return flow is not the Applicant, agreements for return of the water to the Basin should be presented;

Attachment A  
December 6, 2018

- b. An estimate of total return flow by volume in millions of gallons per day or litres per day averaged over a calendar year and as a percentage of Water Diverted including proposed measurement methods;
- c. A description of the discharge location(s) of the return flow;
- d. A description of the anticipated Water quality of the return flow including proposed methods for determining the Water quality;
- e. A description of the return flow as identified in Section A.5.c above, including what Water will be returned, where it will be returned, and how it will minimize the portion of Water from outside the Basin.
- f. An estimate of Consumptive Use, including historical information, where applicable. These estimates may be presented in the form of project engineering design plans or utilizing United States Geological Survey's (USGS) compilation of Consumptive Use estimates or other Consumptive Use coefficients. To the extent the Consumptive Use estimates are different than "generally accepted Consumptive Use coefficients," the Application should include a detailed explanation and justification for projected Consumptive Use.

[Ref: Article 201 Paragraph 4.c. of the Agreement]

- 4. *The Exception [Diversion] shall be implemented so as to ensure that it shall 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.*
  - a. With regard to the Withdrawal, Diversion and return flow identified pursuant to Section A.5 above, provide the following additional information:
    - i. Current conditions regarding hydrologic setting for both groundwater and surface water as well as the connection between the two, water quality and habitat;
    - ii. Statistics on the stream flow, if applicable and available;
    - iii. The relevant aquifer(s);
    - iv. Anticipated individual impacts to the quantity or quality of the Waters and Water Dependent Natural Resources;
    - v. Mitigation measures that will be implemented to prevent or eliminate significant adverse impacts; and
    - vi. An environmental impact assessment or other environmental review of the Proposal, if already prepared under State, Provincial, or federal law.
  - b. The Parties to the Agreement will have the responsibility of conducting Cumulative Impact assessments pursuant to the Agreement. To assist with the development of this analysis, provide information about the potential Cumulative Impacts of the Proposal to the quantity and quality of the Waters and Water Dependent Natural Resources of the Basin. Information may also be included on how the Proposal relates to other existing Withdrawals, Diversions and Consumptive Uses for purposes of enabling the Parties to collectively evaluate Cumulative Impacts from this Proposal during Regional Review. The Application should include data and analyses on Cumulative Impacts that are available from the Originating Party. To that end, all Originating Party

Cumulative Impact assessments should be included in the Application, including but not limited to Cumulative Impact assessments performed pursuant to the Agreement and based on commonly used water management analysis techniques, protocols or modeling tools. The Application should also document any mitigation measures required by the Originating Party to address Cumulative Impacts.

[Ref: Article 201 Paragraph 4.d. and Article 209 Paragraph 6 of the Agreement]

5. *The Exception [Diversion] shall be implemented so as to incorporate Environmentally Sound and Economically Feasible Water Conservation Measures to minimize Water Withdrawals or Consumptive Use.*

The Application should provide a detailed description of the Environmentally Sound and Economically Feasible Water Conservation Measures that have been and will be implemented to ensure that both existing and the proposed water use will result in efficient water use and reduce water loss or waste. Where a conservation and efficiency plan has been developed it should be provided. The description should outline how such measures are:

- a. Environmentally Sound;
- b. Reflect best practices applicable to the water use sector;
- c. Technically feasible and readily available; and
- d. Economically Feasible and Cost Effective in comparison to other measures that are technically feasible and available or are best practices applicable to the water use sector, based on an analysis that considers direct and avoided economic and environmental costs. Factors about the particular facilities and processes that will be considered include:
  - i. Potential environmental impact(s);
  - ii. Age of equipment and facilities;
  - iii. Processes employed; and,
  - iv. Potential energy impacts.

[Ref: Article 103 and Article 201 Paragraph 4.e. of the Agreement]

6. *The Exception [Diversion] shall be implemented so as to ensure that it is in compliance with all applicable municipal, State, Provincial and federal laws as well as regional interstate, inter-provincial and international agreements, including the Boundary Waters Treaty of 1909.*

Any approval of a Diversion pursuant to the terms of the Agreement or relevant State or Provincial law does not relieve the Applicant or the Originating Party of the responsibility to obtain additional authorizations required for the activity approved by the Regional Body or the relevant State or Province. If any environmental permits have already been issued, they should be included in the Application.

[Ref: Article 201 Paragraph 4.f. of the Agreement]

7. *Additional Information.*

Provide any other additional information that the Applicant or Originating Party deems relevant for the Regional Body's consideration.

- C. Additional Information Straddling Community Exception [Diversion] Applications.
1. All Applications should include information to show that the Proposal meets the following additional criteria contained in Article 201 Paragraph 1 of the Agreement.
    - a. *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.*

The Application should include a statement and demonstration that all the Water diverted will be used solely for Public Water Supply Purposes within the community seeking the Water. It must also be demonstrated that the community meets the definition of a Straddling Community [Ref: Article 201 Paragraph 1 of the Agreement]; and
  2. The Application should contain an analysis showing that the return flow maximizes the Basin Water portion returned to the Source Watershed while water from outside the Basin is minimized. This analysis may be incorporated and addressed as part of the Applicant's response to section B.3. above. [Ref: Article 201 Paragraph 1 a (iii) of the Agreement] and
  3. The Application should contain all reports about the Proposal prepared for any other purpose that provide substantive information material to an evaluation of the Proposal.

**Section 200.6.2. Contents of Application for Regional Review for an "Intra-Basin Transfer" Exception to the Prohibition against Diversions.**

This section applies to Applications for an exception to the general prohibition against Diversions (*see* Article 200, Paragraph 1 of the Agreement) where the underlying Proposal is to transfer Water from the watershed of one of the Great Lakes into the watershed of another Great Lake, and such Proposal will result in a New or Increased Consumptive Use of 5 million gallons per day (or 19 million litres per day) or greater average over any 90-day period (See Article 201, Paragraph 2.c of the Agreement).

Only the Originating Party may forward Applications to the Regional Body. Applications may not be submitted directly to the Regional Body by the Applicant, but rather must be submitted to the Originating Party.

Any information requested by these Procedures that was not included in the original Application to the Originating Party should be added as an attachment to the original Application as appropriate.

If applicable or necessary, the Applicant should provide a table of contents or index indicating where in the Application the information in response to Sections B and C below is provided. Responses to Section A, and brief descriptions of the information requested in B and C, may be provided as a cover memo.

- A. Basic Information. All Applications should include, but not be limited to, the following information:

Attachment A  
December 6, 2018

1. *Information about the Applicant.*
  - a. Name of Applicant;
  - b. Mailing address of Applicant;
  - c. Name of contact person for Application;
  - d. Applicant contact's phone number; and,
  - e. Applicant contact's email address.
  - f. The entity or entities that are participants or otherwise involved in implementing any component of the Proposal, including but not limited to any entity or entities other than the Applicant that will Withdraw the Water, return Water to the Great Lakes – St. Lawrence River Watershed, etc... Information on these entities should include:
    - i. Name of entity;
    - ii. Mailing address of entity;
    - iii. Name of contact person;
    - iv. Entity contact's phone number; and
    - v. Entity contact's email address.

[Ref: Article 103 of the Agreement (“Applicant” definition)]

2. *Identification of the Originating Party, including any and all government offices or partners, the mailing address of the same, the name of the individual authorized to act for the Originating Party, and any other points of contact on behalf of the Originating Party.*

3. *Identification of the specific Exception to the Prohibition of Diversions being applied for.*

Please note in the Application that the Applicant is seeking an Exception to the Prohibition Against Diversions pursuant to Article 201 Paragraph 2.c of the Agreement, entitled “Intra-Basin Transfer.”

[Ref: Article 201 of the Agreement]

4. *Timing of Additional Applications.*

Provide the date of any previous Applications made to the Originating Party within the past 10 years and the daily volume averaged over a 90 day period of the water Withdrawal, Consumptive Use or Diversion approved, as applicable. Diversions, Consumptive Uses and Withdrawals that constitute a baseline pursuant to Article 207, Paragraph 1 of the Agreement should not be included in response to this section.

[Ref: Article 207 Paragraph 2 of the Agreement]

5. *Source of the Withdrawal and location of the Diversion.*

Provide the following:

- a. Description of the location and source of the Withdrawal. Alternative locations may also be identified, with the preferred location indicated. If multiple wells or pump sites are to be used, provide information for them all.
- b. To the extent that the local entity that will be making the Withdrawal is not the Applicant, a demonstration that the local entity has sufficient withdrawal

Attachment A  
December 6, 2018

- capacity to service the Applicant's needs and is willing to negotiate a purchase contract with the Applicant.
- c. A map or photo of the area identifying the Source Watershed<sup>4</sup> and proposed location of the Diversion, together with a description of the area that is proposed to receive the Diverted Water and location of the return flow and water supply service area.
  - d. An identification of the Source Watershed. Specify if the source is a groundwater source (and if so, indicate if confined or unconfined), or surface water source (if so, indicate the name of the lake, river, or stream).
6. *Total volume of the New or Increased Diversion and associated Consumptive Use*<sup>5</sup>. Identify:
- a. The total maximum volume of the Diversion and associated Consumptive Use over the next 25 years (or the time period required by the Originating Party) as expressed in millions of gallons per day or millions of litres per day averaged over a calendar year as well as over the peak 90 day period during a calendar year.
  - b. Information regarding whether the proposed use would be continuous, seasonal or temporary.
  - c. The location of the point of measurement of the Diversion, and the technical method to be used for measuring the rate of the Diversion.
  - d. The total volume of any existing Diversion and Consumptive Use listed pursuant to Article 207, Paragraph 1 of the Agreement that this Proposal will increase; or, the total volume of any previously approved Diversion that this Proposal will increase, as applicable.
- Unless otherwise noted, all rates and volumes should be expressed in millions of gallons and litres per day.
7. *Originating Party Technical Assessments.*  
Any technical assessments, including the Technical Review, made by the Originating Party should be included in the Application package.  
[Ref: Article 505 Paragraph 1 of the Agreement]
8. *Purpose of the intra-basin Transfer.*

---

<sup>4</sup> "Source Watershed" as defined in the Agreement 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 Watershed 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.

<sup>5</sup> "Consumptive Use" as defined in the Agreement means that the portion of 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."

Attachment A  
December 6, 2018

Provide detailed written explanation of what the Water will be used for. Uses could include Public Water Supply Purposes, or other purposes. If the Water is to be used for multiple purposes, estimate percent usage by sector.

9. *Additional materials from the Originating Party's Administrative Record as appropriate.* The Originating Party should also forward with the Application any other documents or materials used or developed during the Originating Party's review of the Proposal that the Originating Party determines may assist the Regional Body during its review, including any transcript or summary of any consultation that has occurred with federally recognized Tribes as well as First Nations and provincially recognized Métis communities in Canada.
- B. Exception Standard Criteria. All Applications should include information to show that the Proposal meets the following Exception Standard criteria contained in Article 201 Paragraph 4 of the Agreement.
1. *The need for all or part of the Exception [Diversion] cannot be reasonably avoided through the efficient use and conservation of existing water supplies.*  
Applications should include a narrative describing the need for the New or Increased Diversion. This description should include an analysis of the efficiency of current water uses, including the application of Environmentally Sound and Economically Feasible Water Conservation Measures. Such analysis may either be one that the Applicant previously submitted to the Originating Party or creates and submits to Originating Party for forwarding to the Regional Body.  
[Ref: Article 201 Paragraph 4.a. of the Agreement]
  2. *The Exception [Diversion] will be limited to quantities that are considered reasonable for the purposes for which it is proposed.*  
Applications should include a narrative explaining why the quantities requested in Section A.6.a above are considered reasonable for the purposes for which the Exception is proposed (for example, population projections). To that end, the Application should also include a Water use plan. For public water supply systems the plan should include: water use and population projections to support the term and daily volumes requested for the time period required by the Originating Party for water use plans, or up to 25 years if no time period is set by the Originating Party; a description of the capacity of the withdrawal, treatment and distribution portions of the system; an assessment of the water use savings of current and proposed water conservation and efficiency programs. Applications for other uses, such as industrial or agricultural, must include a plan that projects water use at the time of Application and projected for up to 25 years or the time period required by the Originating Party.  
[Ref: Article 201 Paragraph 4.b. of the Agreement]
  3. *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 outside the Basin may be used to satisfy any portion of this criterion except if it:*

Attachment A  
December 6, 2018

- a. *Is part of a water supply or wastewater treatment system that combines water from inside and outside of the Basin;*
- b. *Is treated to meet applicable water quality discharge standards and to prevent the introduction of invasive species into the Basin;*

The Application should include a description of how the Water will be returned.

This description should include:

- a. An explanation of how and when the Water will be returned. To the extent the local entity that will be discharging the return flow is not the Applicant, agreements for return of the water to the Basin should be presented;
- b. An estimate of total return flow by volume in gallons per day or litres per day averaged over a calendar year and as a percentage of Water Diverted including proposed measurement methods;
- c. A description of the discharge location(s) of the return flow;
- d. A description of the anticipated Water quality of the return flow including proposed methods for determining the Water quality;
- e. A description of the Return Flow as identified in Section A.5.c above, including what Water will be returned, where it will be returned, and how it will minimize the portion of Water from outside the Basin.
- f. An estimate of Consumptive Use, including historical information, where applicable. These estimates may be presented in the form of project engineering design plans or utilizing United States Geological Survey's (USGS) compilation of Consumptive Use estimates or other Consumptive Use coefficients. To the extent the Consumptive Use estimates are different than "generally accepted Consumptive Use coefficients," the Application should include a detailed explanation and justification for projected Consumptive Use.

[RefArticle 201 Paragraph 4.c. of the Agreement]

- 4. *The Exception [Diversion] shall be implemented so as to ensure that it shall 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.*
  - a. With regard to the Withdrawal, Diversion and return flow identified pursuant to Section A.5 above, provide the following additional information:
    - i. Current conditions regarding hydrologic setting for both groundwater and surface water as well as the connection between the two, water quality and habitat;
    - ii. Statistics on the stream flow, if applicable and available;
    - iii. The relevant aquifer(s);
    - iv. Anticipated individual impacts to the quantity or quality of the Waters and Water Dependent Natural Resources;
    - v. Mitigation measures that will be implemented to prevent or eliminate significant adverse impacts; and
    - vi. An environmental impact assessment or other environmental review of the Proposal, if already prepared under State, Provincial, or federal law.

Attachment A  
December 6, 2018

- b. The Parties to the Agreement will have the responsibility of conducting Cumulative Impact assessments pursuant to the Agreement. To assist with the development of this analysis, provide information about the potential Cumulative Impacts of the Proposal to the quantity-and quality of the Waters and Water Dependent Natural Resources of the Basin. Information may also be included on how the Proposal relates to other existing Withdrawals, Diversions and Consumptive Uses for purposes of enabling the Parties to collectively evaluate Cumulative Impacts from this Proposal during Regional Review. The Application should include data and analyses on Cumulative Impacts that are available from the Originating Party. To that end, all Originating Party Cumulative Impact assessments should be included in the Application, including but not limited to Cumulative Impact assessments performed pursuant to the Agreement and based on commonly used water management analysis techniques, protocols or modeling tools. The Application should also document any mitigation measures required by the Originating Party to address Cumulative Impacts.  
[Ref: Article 201 Paragraph 4.d. and Article 209 Paragraph 6 of the Agreement]

5. *The Exception [Diversion] shall be implemented so as to incorporate Environmentally Sound and Economically Feasible Water Conservation Measures to minimize Water Withdrawals or Consumptive Use.*  
The Application should provide a detailed description of the Environmentally Sound and Economically Feasible Water Conservation Measures that have been and will be implemented to ensure that both existing and the proposed water use will result in efficient water use and reduce water loss or waste. Where a conservation and efficiency plan has been developed it should be provided. The description should outline how such measures are:
- a. Environmentally Sound;
  - b. Reflect best practices applicable to the water use sector;
  - c. Technically feasible and readily available; and
  - d. Economically Feasible and Cost Effective in comparison to other measures that are technically feasible and available or are best practices applicable to the water use sector, based on an analysis that considers direct and avoided economic and environmental costs. Factors about the particular facilities and processes that will be considered include:
    - i. Potential environmental impact(s);
    - ii. Age of equipment and facilities;
    - iii. Processes employed; and,
    - iv. Potential energy impacts.
- [Ref: Article 103 and Article 201 Paragraph 4.e. of the Agreement]

6. *The Exception [Diversion] shall be implemented so as to ensure that it is in compliance with all applicable municipal, State, Provincial and federal laws as well as regional interstate ,inter-provincial and international agreements, including the Boundary Waters Treaty of 1909.*

Any approval of a Diversion pursuant to the terms of the Agreement or relevant State or Provincial law does not relieve the Applicant or the Originating Party of the responsibility to obtain additional authorizations required for the activity approved by the Regional Body or the relevant State or Province. If any environmental permits have already been issued, they should be included in the Application. [Ref: Article 201 Paragraph 4.f. of the Agreement]

7. *Additional Information.*

Provide any other additional information that the Applicant or Originating Party deems relevant for the Regional Body's consideration.

C. Additional Information—Intra-Basin Transfers Exception Applications.

All Applications should include information to show that the Proposal meets the following additional criteria contained in Article 201 Paragraph 2.c. of the Agreement.

1. *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;*  
As part of its Application addressing Section B.3. above, the Applicant should show how water will be returned to the Source Watershed  
[Ref: Article 201 Paragraph 2.c.i of the Agreement]
2. *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.*  
The Application should include an analysis showing that there is no feasible, cost effective, and environmentally sound water supply alternative, including conservation and efficient use of existing water supplies, within the Great Lake watershed to which the Water will be transferred. Such analysis should address quantity and quality (including treatability) of alternative sources and should describe the rationale for not using the other considered water supply alternatives.  
[Ref: Article 201 Paragraph 2.c.ii. of the Agreement]
3. The Application should contain all reports about the Proposal prepared for any other purpose that provide information material to an evaluation of the Proposal.

**Section 200.6.3. Contents of Application for Regional Review for a “Straddling County” Exception to the Prohibition against Diversions.**

This section applies to Applications for an exception to the general prohibition against Diversions (see Article 200, Paragraph 1 of the Agreement) where the underlying Proposal

Attachment A  
December 6, 2018

is to transfer Water to a Community within a Straddling County<sup>6</sup> (See Article 201, Paragraph 3 of the Agreement).

Only Proposals to Divert Water solely for Public Water Supply Purposes of a Community within a Straddling County that is without adequate supplies of potable water will be considered under this Section (Article 201, Paragraph 3.a. of the Agreement).

Only the Originating Party may forward Applications to the Regional Body. Applications may not be submitted directly to the Regional Body by the Applicant, but rather must be submitted to the Originating Party.

Any information requested by these Procedures that was not included in the original Application to the Originating Party should be added as an attachment to the original Application as appropriate.

If applicable or necessary, the Applicant should provide a table of contents or index indicating where in the Application the information in response to Sections B and C below is provided. Responses to Section A, and brief descriptions of the information requested in B and C, may be provided as a cover memo.

A. Basic Information. All Applications should include, but not be limited to, the following information:

1. *Information about the Applicant.*
  - a. Name of Applicant;
  - b. Mailing address of Applicant;
  - c. Name of contact person for Application;
  - d. Applicant contact's phone number; and,
  - e. Applicant contact's email address.
  - f. The entity or entities that are participants or otherwise involved in implementing any component of the Proposal, including but not limited to any entity or entities other than the Applicant that will Withdraw the Water, return Water to the Great Lakes – St. Lawrence River Watershed, etc... Information on these entities should include:
    - i. Name of entity;
    - ii. Mailing address of entity;
    - iii. Name of contact person;
    - iv. Entity contact's phone number; and
    - v. Entity contact's email address.

[Ref: Article 103 of the Agreement (“Applicant” definition)]

---

<sup>6</sup> “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.

“County” means the largest territorial division for local government in a State. In Québec, County means a regional county municipality (municipalité régionale de comté - MRC). The County boundaries shall be defined as those boundaries that exist as of the signing date of the Agreement (December 13, 2005). (Ref: Article 103 of the Agreement).

2. *Identification of the Originating Party, including any and all government offices or partners, the mailing address of the same, the name of the individual authorized to act for the Originating Party, and any other points of contact on behalf of the Originating Party.*

3. *Identification of the specific Exception to the Prohibition of Diversions being applied for.*

Please note in the Application that the Applicant is seeking an Exception to the Prohibition Against Diversions pursuant to Article 201 Paragraph 3 of the Agreement, entitled “Straddling Counties.”

[Ref: Article 201 of the Agreement] <sup>7</sup>

4. *Timing of Additional Applications.*

Provide the date of any previous Applications made to the Originating Party within the past 10 years and the daily volume of the water Withdrawal, Consumptive Use or Diversion approved, as applicable. Diversions, Consumptive Uses and Withdrawals that constitute a baseline pursuant to Article 207, Paragraph 1 of the Agreement should not be included in response to this section.

[Ref: Article 207 Paragraph 2 of the Agreement]

5. *Source of the Withdrawal and location of the Diversion.*

Provide the following:

- a. Description of the location and source of the Withdrawal. Alternative locations may also be identified, with the preferred location indicated. If multiple wells or pump sites are to be used, provide information for them all.
- b. To the extent that the local entity that will be making the Withdrawal is not the Applicant, a demonstration that the local entity has sufficient withdrawal capacity to service the Applicant’s needs and is willing to negotiate a purchase contract with the Applicant.
- c. A map or photo of the area identifying the Source Watershed<sup>8</sup> and proposed location of the Diversion, together with a description of the area that is proposed to receive the Diverted Water and location of the return flow and water supply service area.

---

<sup>8</sup> “Source Watershed” as defined in the Agreement 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 Watershed 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.

Attachment A  
December 6, 2018

- d. An identification of the Source Watershed. Specify if the source is a groundwater source (and if so, indicate if confined or unconfined), or surface water source (if so, indicate the name of the lake, river, or stream).

6. *Total volume of the new or increased Diversion.*

Identify:

- a. The total maximum volume of the Diversion over the next 25 years (or the time period required by the Originating Party) as expressed in millions of gallons per day or millions of litres per day averaged over a calendar year as well as over the peak 90 day period during a calendar year.
- b. The expected monthly usage of the Diversion, expressed in millions of gallons and litres per day and information regarding whether the proposed use would be continuous, seasonal or temporary.
- c. The location of the point of measurement of the Diversion, and the technical method to be used for measuring the rate of the Diversion.
- d. The total volume of any existing Diversion listed pursuant Article 207, Paragraph 1 of the Agreement that this Proposal will increase; or, the total volume of any previously approved Diversion that this Proposal will increase, as applicable.

Unless otherwise noted, all rates and volumes should be expressed in millions of gallons and litres per day.

7. *Originating Party Technical Assessments.*

Any technical assessments, including the Technical Review, made by the Originating Party should be included in the Application package.

[Ref: Article 505 Paragraph 1 of the Agreement]

8. *Additional materials from the Originating Party's Administrative Record as appropriate.* The Originating Party should also forward with the Application any other documents or materials used or developed during the Originating Party's review of the Proposal that the Originating Party determines may assist the Regional Body during its review, including any transcript or summary of any consultation that has occurred with federally recognized Tribes as well as First Nations and provincially recognized Métis communities in Canada.

[Ref: Article 504 Paragraph 1 of the Agreement]

B. Exception Standard Criteria. All Applications should include information to show that the Proposal meets the following Exception Standard criteria contained in Article 201 Paragraph 4 of the Agreement.

1. *The need for all or part of the Exception [Diversion] cannot be reasonably avoided through the efficient use and conservation of existing water supplies.*

Applications should include a narrative describing the need for the New or Increased Diversion. This description should include an analysis of the efficiency of current water uses, including the application of Environmentally Sound and Economically Feasible Water Conservation Measures. Such analysis may either be

Attachment A  
December 6, 2018

one that the Applicant previously submitted to the Originating Party or creates and submits to the Originating Party for forwarding to the Regional Body.

[Ref: Article 201 Paragraph 4.a. of the Agreement]

2. *The Exception [Diversion] will be limited to quantities that are considered reasonable for the purposes for which it is proposed.*

Applications should include a narrative explaining why the quantities requested in Section A.6.a above are considered reasonable for the purposes for which the Exception is proposed (for example, population projections). To that end, the Application should also include a Water use plan. The plan should include: water use and population projections to support the term and daily volumes requested for the time period required by the Originating Party for water use plans, or up to 25 years if no time period is set by the Originating Party; a description of the capacity of the withdrawal, treatment and distribution portions of the system; an assessment of the water use savings of current and proposed water conservation and efficiency programs.

[Ref: Article 201 Paragraph 4.b. of the Agreement]

3. *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 outside the Basin may be used to satisfy any portion of this criterion except if it:*

- a. *Is part of a water supply or wastewater treatment system that combines water from inside and outside of the Basin;*
- b. *Is treated to meet applicable water quality discharge standards and to prevent the introduction of invasive species into the Basin;*

The Application should include a description of how the Water will be returned. This description should include:

- a. An explanation of how and when the Water will be returned. To the extent the local entity that will be discharging the return flow is not the Applicant, agreements for return of the water to the Basin should be presented;
- b. An estimate of total return flow by volume in millions of gallons per day or litres per day averaged over a calendar year and as a percentage of Water Diverted including proposed measurement methods;
- c. A description of the discharge location(s) of the return flow;
- d. A description of the anticipated Water quality of the return flow including proposed methods for determining the Water quality;
- e. A description of the Return Flow as identified in Section A.5.c above and Section C.2. below, including what Water will be returned, where it will be returned, and how it will minimize the portion of Water from outside the Basin.
- f. An estimate of Consumptive Use, including historical information, where applicable. These estimates may be presented in the form of project engineering design plans or utilizing United States Geological Survey's (USGS) compilation of Consumptive Use estimates or other Consumptive Use coefficients. To the extent the Consumptive Use estimates are different than "generally accepted

Attachment A  
December 6, 2018

Consumptive Use coefficients,” the Application should include a detailed explanation and justification for projected Consumptive Use.  
[Ref: Article 201 Paragraph 4.c. of the Agreement]

4. *The Exception [Diversion] shall be implemented so as to ensure that it shall 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.*
  - a. With regard to the Withdrawal, Diversion and return flow identified pursuant to Section A.5 above, provide the following additional information:
    - i. Current conditions regarding hydrologic setting for both groundwater and surface water as well as the connection between the two, water quality and habitat;
    - ii. Statistics on the stream flow, if applicable and available;
    - iii. The relevant aquifer(s);
    - iv. Anticipated individual impacts to the quantity or quality of the Waters and Water Dependent Natural Resources;
    - v. Mitigation measures that will be implemented to prevent or eliminate significant adverse impacts; and
    - vi. An environmental impact assessment or other environmental review of the Proposal, if already prepared under State, Provincial, or federal law.
  - b. The Parties to the Agreement will have the responsibility of conducting Cumulative Impact assessments pursuant to the Agreement. To assist with the development of this analysis, provide information about the potential Cumulative Impacts of the Proposal to the quantity-and quality of the Waters and Water Dependent Natural Resources of the Basin. Information may also be included on how the Proposal relates to other existing Withdrawals, Diversions and Consumptive Uses for purposes of enabling the Parties to collectively evaluate Cumulative Impacts from this Proposal during Regional Review. The Application should include data and analyses on Cumulative Impacts that are available from the Originating Party. To that end, all Originating Party Cumulative Impact assessments should be included in the Application, including but not limited to Cumulative Impact assessments performed pursuant to the Agreement and based on commonly used water management analysis techniques, protocols or modeling tools. The Application should also document any mitigation measures required by the Originating Party to address Cumulative Impacts.

[Ref: Article 201 Paragraph 4.d. and Article 209 Paragraph 6 of the Agreement]

5. *The Exception [Diversion] shall be implemented so as to incorporate Environmentally Sound and Economically Feasible Water Conservation Measures to minimize Water Withdrawals or Consumptive Use.*

The Application should provide a detailed description of the Environmentally Sound and Economically Feasible Water Conservation measures that have been and will be implemented to ensure that both existing and the proposed water use will

Attachment A  
December 6, 2018

result in efficient water use and reduce water loss or waste. Where a conservation and efficiency plan has been developed it should be provided. The description should outline how such measures are:

- a. Environmentally Sound;
- b. Reflect best practices applicable to the water use sector;
- c. Technically feasible and readily available; and
- d. Economically Feasible and Cost Effective in comparison to other measures that are technically feasible and available and/or are best practices applicable to the water use sector, based on an analysis that considers direct and avoided economic and environmental costs. Factors about the particular facilities and processes that will be considered include:
  - i. Potential environmental impact(s);
  - ii. Age of equipment and facilities;
  - iii. Processes employed; and,
  - iv. Potential energy impacts.

[Ref: Article 103 and Article 201 Paragraph 4.e. of the Agreement]

6. *The Exception [Diversion] shall be implemented so as to ensure that it is in compliance with all applicable municipal, State, Provincial and federal laws as well as regional interstate, inter-provincial and international agreements, including the Boundary Waters Treaty of 1909.*

Any approval of a Diversion pursuant to the terms of the Agreement or relevant State or Provincial law does not relieve the Applicant or the Originating Party of the responsibility to obtain additional authorizations required for the activity approved by the Regional Body or relevant State or Province. If any environmental permits or assessments have already been issued, they should be included in the Application.

[Ref: Article 201 Paragraph 4.f. of the Agreement]

7. *Additional Information.*

Provide any other additional information that the Applicant or Originating Party deems relevant for the Regional Body's consideration.

- C. Additional Information – Straddling County Exception [Diversion] Applications. All Applications should include information to show that the Proposal meets the following additional criteria contained in Article 201 Paragraph 3 of the Agreement.

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

The Application should include:

- a. A statement and demonstration that all the Water diverted will be used solely for Public Water Supply Purposes within the community seeking the Water. It must also be demonstrated that the community is a Community in a Straddling County.
- b. An analysis showing that there are inadequate supplies of potable water available to the community. This analysis may be incorporated and addressed as part of the Applicant's response to Section B.1 above.

[Ref: Article 201 Paragraph 3.a. of the Agreement]

2. *The Proposal meets the Exception [Diversion] 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.*

The Application should include an analysis showing that the return flow maximizes the Basin Water portion returned to the Source Watershed and minimizes water from outside the Basin. This analysis may be incorporated and addressed as part of the Applicant's response to Section B.3 above.

[Ref: Article 201 Paragraph 3(b) of the Agreement]

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

The Application should include an analysis of the alternatives must demonstrate that there is no reasonable water supply alternative within the basin in which the community is located, including through the conservation and efficient use of existing water supplies. Such analysis should address quantity and quality (including treatability) of alternative sources and should describe the rationale for not using the other considered water supply alternatives.

4. *Caution shall be used in determining whether or not the Proposal meets the conditions for this Exception [Diversion]. This Exception [Diversion] should not be authorized unless it can be shown that it will not endanger the integrity of the Basin Ecosystem.*

The Application should include an analysis indicating that the Proposal will not endanger the integrity of the Basin Ecosystem. This analysis may be incorporated and addressed as part of the Applicant's response to Section B.4 above.

5. *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.*

If applicable, the Application should include evidence that the existing water supply is derived from groundwater that is hydrologically interconnected to waters of the Basin.

6. The Application should include all reports about the Proposal prepared for any other purpose that provide substantive information material to the evaluation of the Proposal.

**Section 200.7. Notice of Receipt of Application; Technical Reviews.**

1. Within 5 days of receiving an Application from the Originating Party, the Executive Director will give notice of receipt to the other Members and provide each of them with a copy of the Application, including all materials submitted by the Originating Party to the Regional Body pursuant to Section 200.4. Such notice and distribution of materials may be made electronically, including via website.

2. The Executive Director and the Parties will review the Application, and if necessary, request that the Originating Party provide any additional information that any of them believes would be useful for the purpose of evaluating whether the Proposal meets the criteria in the Agreement. The Originating Party has a duty to provide information reasonably necessary for the Regional Body's review of the Proposal.
3. If the Regional Body concludes that the Application contains insufficient information to determine whether the criteria for the relevant Exception has been met by the Applicant, the Executive Director may request the Originating Party to cure the deficiencies within the time specified in the request. At the end of such period, the Regional Body's review may continue unless the Originating Party requests additional time and the Regional Body grants such extension. Such a request may come at any point during the Regional Review period.
4. The Regional Body or any Member may perform its own Technical Review of the Proposal. Unless the Applicant or the Originating Party otherwise requests, all technical reviews should be completed no later than 60 days after the Secretariat determines and notifies the Regional Body that the Originating Party's Application to the Regional Body is complete and includes all necessary information for the review. This 60-day period, as well as any corresponding public comment period, may be extended at the discretion of the Regional Body upon request of the Applicant or the Originating Party.
5. Any extension of time granted for the purposes of curing deficiencies in an Application results in a corresponding extension of all relevant timelines for all steps of the Regional Review process, including such timelines as are contained in these Procedures.

**Section 200.8. Federally recognized Tribes in the U.S. as well as First Nations and provincially recognized Métis communities in Canada Notice and Involvement.**

1. In accordance with Article 503 paragraph 2 of the Agreement, the Executive Director on behalf of the Regional Body, will provide notice to federally recognized Tribes as well as First Nations and provincially recognized Métis communities in Canada within the Basin of the opportunity to comment, pursuant to Section 200.9 of these Procedures, in writing to the Regional Body on whether the Proposal meets the relevant criteria in the Agreement. The Executive Director should provide such notice within 10 days after receiving an Application from the Originating Party. In accordance with Article 501 paragraph 3 of the Agreement, such notice will not be given unless and until the Executive Director concludes that all information, documents and the Originating Party's Technical Review needed to evaluate whether the Proposal meets the Exception Standard have been provided.
2. Such notice to federally recognized Tribes as well as First Nations and provincially recognized Métis communities in Canada will be provided separate from the notice provided to the general public. The principal purpose of the notice will be to provide federally recognized Tribes as well as First Nations and provincially recognized Métis communities in Canada the opportunity to comment with respect to whether the Proposal meets the requirements of the Agreement's Standard.

Attachment A  
December 6, 2018

3. The notice to federally recognized Tribes as well as First Nations and provincially recognized Métis communities in Canada will include, to the extent available, the following:
  - a. Designation of a time reserved for federally recognized Tribes as well as First Nations and provincially recognized Métis communities in Canada to exercise the participatory rights described in Sections 201.3, 201.4.f, and 201.6.
  - b. The date and time as well as the logistics for attending any public briefing, public meeting and/or public hearing set pursuant to Section 201.1 of these Procedures and an invitation to attend.
  - c. A description of the Proposal and its purpose; the requested Water Withdrawal, Diversion and Consumptive Use amounts; the location(s) where copies of the Application and all other relevant documents, including the Originating Party's Proposed Declaration of Finding, are available for review; the time periods in which these documents will be available for review, the deadline for submitting any comments regarding the Proposal and the manner of submitting comments; the address, electronic mail address, and phone number of Regional Body Members; and how a copy of the Application and other documents submitted by the Originating Party may be obtained.
4. The Executive Director, on behalf of the Regional Body, also will inform the federally recognized Tribes as well as First Nations and provincially recognized Métis communities in Canada of public hearings or meetings set pursuant to Section 201.2 of these Procedures and invite them to attend.
5. The Regional Body will reserve a separate time for federally recognized Tribes as well as First Nations and provincially recognized Métis communities in Canada, before or after any public briefing or meeting, to discuss the Proposal with the Regional Body. (*See* Section 201.1.3 of these Procedures).
6. The Executive Director will forward the comments that it receives from federally recognized Tribes as well as First Nations and provincially recognized Métis communities in Canada under this Section to the Members including the Originating Party for their consideration before the Regional Body issues a Declaration of Finding.
7. The Regional Body will consider the comments that it receives from federally recognized Tribes as well as First Nations and provincially recognized Métis communities in Canada under this Section before issuing its Declaration of Finding, and, where applicable, respond to such comments in the Declaration of Finding (*see* Section 201.4.4 of these Procedures).

**Section 200.9. General Notice and Opportunity to Comment.**

1. In accordance with Article 503 paragraph 2 of the Agreement, the Executive Director, on behalf of the Regional Body, will provide notice to the public of all Proposals submitted to the Regional Body for Regional Review. In accordance with Article 501 paragraph 3 of the Agreement, such notice will not be given unless and until the Executive Director concludes that all information, documents and the Originating Party's Technical Review needed to evaluate whether the Proposal meets the Exception Standard have been provided. Such notice will state that the public has an opportunity to comment in writing to the Regional Body on whether the Proposal meets the relevant criteria in the Agreement. Notice will be provided through the Regional Body website

- and sent to interested Persons in accordance with a list of such Persons compiled by the Regional Body. Any interested Person may have his or her name added to the list by informing the Executive Director. The Executive Director will provide such notice within 10 days after receiving the complete Application from the Originating Party.
2. In accordance with Article 503 paragraph 3 of the Agreement, the Regional Body shall hold a public meeting pursuant to Section 201.1 within the jurisdiction of the Originating Party.
  3. Each Party will also take actions to ensure that the public within their jurisdiction has an opportunity to comment during the public comment period. Such actions may include providing direction to the members of that jurisdiction's public on how to submit comments to the Regional Body, or hosting a public meeting pursuant to these Procedures. Therefore, each member of the Regional Body may determine if there is sufficient public interest to hold an additional public meeting or public hearing within its jurisdiction. Based on such determination, at the request of a member the Regional Body may also hold either a public meeting (the format of which will be at the host jurisdiction's discretion) within the jurisdiction. If such a meeting is organized, only a representative of the host jurisdiction will be required to participate in such event. A transcript or summary of oral comments received should be created by the host jurisdiction. Any transcript created or, in the absence of a transcript, a written summary of comments received from the public, including oral comments or summaries drafted by Members of the Regional Body, will be forwarded by the Secretariat to the Members of the Regional Body and will be incorporated into the administrative record.
  4. All notices issued under this Section will contain a description of the Proposal, its purpose, requested Water Withdrawal, Diversion and Consumptive Use amounts, location(s) and time periods for review of the Application and all other relevant documents available for review, as well as the time period during which written comments will be accepted, the manner of submitting such comments, person to which they will be addressed and the street address, post office box office and the electronic mail address and phone number of the Executive Director.
  5. All documents relevant to the Proposal, including all materials submitted to the Regional Body pursuant to Section 200.4, all completed Technical Reviews, and the Originating Party's proposed Declaration of Finding will be made available to the public by posting the documents on the Regional Body's website whenever feasible, offering the documents for inspection at the offices of the Secretariat and, where feasible, designated offices of the Parties, and providing copies of the documents upon request at a reasonable fee.
  6. The Regional Body will consider the comments received before issuing a Declaration of Finding.
  7. The Secretariat will forward the comments it receives to the Members of the Regional Body. The comments will also be made publicly available in the manner provided in Section 200.9.1.

**Section 201. Process for Review of and Meetings on Proposals.**

**Section 201.1. Public Meetings on Proposals.**

1. A public meeting as referenced in Section 200.9.2 or 200.9.3 may take a variety of formats, including, as appropriate, providing informational presentations and opportunities for both written and oral comment. The format and procedures for the public meeting will be developed in conjunction with the host jurisdiction Party.
2. Any transcript created or, in the absence of a transcript, a written summary of comments received from the public, including oral comments or summaries drafted by Members of the Regional Body, will be forwarded by the Secretariat to the Members of the Regional Body and will be incorporated into the administrative record.
3. The Regional Body will reserve a separate time for federally recognized Tribes as well as First Nations and provincially recognized Métis communities in Canada, before or after any public briefing or meeting, to discuss the Proposal with the Regional Body.

**Section 201.2.—Left Intentionally Blank.**

**Section 201.3. Optional Joint Public Meetings.**

1. Any public meeting held pursuant to Section 201.1 may be held concurrently with any similar public meeting held by the Council or a Party to the Agreement or the Compact.
2. The Regional Body may request that any two or more public meetings, including meetings held by the Council, to be consolidated where they involve a common or related question of law or fact.

**Section 201.4. Process for Review of Proposals.**

1. The Regional Body will review all Proposals in the manner as set forth in Chapter 5 of the Agreement and these Procedures before issuing a Declaration of Finding.
2. The Regional Body shall hold a public meeting in accordance with Section 201.1 of these Procedures before issuing a Declaration of Finding.
3. Unless the Originating Party otherwise requests, the Regional Body will endeavor to meet and act upon all Proposals within 90 days of the Regional Body's receipt of the Application.
4. The Declaration(s) of Finding should be based on consideration of the Proposal and all supporting information, the Originating Party's Technical Review and any other Technical Reviews that are performed by the Regional Body or a Party, any comments received during the comment process, including the comments made by the public, federally recognized Tribes as well as First Nations and provincially recognized Métis communities in Canada and any other information provided to the Regional Body or any Member under the Agreement. Where appropriate, the Declaration of Finding will include findings of fact, conclusions of law and a "comment and response" section that provides a summary of comments received from federally recognized Tribes as well as First Nations and provincially recognized Métis communities in Canada and the public, as well as any response to such comments. In addition, all documents upon which the Regional Body relied or which the Regional Body otherwise considered in drafting the Declaration of Finding, including without limitation any relevant public comments timely submitted on the Proposal, should be included in an administrative record.
5. Upon the issuance of one or more Declaration(s) of Finding by the Regional Body, the Executive Director should provide notice to the Applicant and Members of such action. The Secretariat will also give notice to the public, federally recognized Tribes as well

Attachment A  
December 6, 2018

as First Nations and provincially recognized Métis communities in Canada in the same manner in which notice of opportunity to comment in writing was provided. All such notices will include the text of the Declaration(s) of Finding. The Executive Director should endeavor to provide all such notices within 10 days of such issuance of Declaration(s) of Finding. In addition, the Secretariat will post the notice and text of the decision on the Regional Body's website.

6. The Regional Body may suspend the review of any Proposal under this Part if the Proposal is subject to the lawful jurisdiction of any Party or any political subdivision thereof, and such Party or political subdivision has disapproved or denied the Proposal. Where such disapproval or denial is reversed on appeal, the appeal is final, and the Originating Party provides the Regional Body with a certified copy of the decision, the Regional Body may resume its review of the Proposal. Where, however, a Proposal has been suspended hereunder for a period greater than three years, the Regional Body may terminate its review and notify the Originating Party of such termination. The Originating Party may reactivate the terminated Proposal by reapplying to the Regional Body, providing evidence of its receipt of all necessary governmental approvals and, at the discretion of the Regional Body, submitting new or updated information.
7. The Regional Body may extend the review of a Proposal under this Part by unanimous consent of the Members, after consultation with the Applicant.

**Sequence of Events for Consideration of Proposals for  
Exceptions to the Prohibition on Diversions that are subject to Regional Review.**

Before the Pre-Application Period, Proposal undergoes review by Originating Party to determine if the Proposal is subject to Regional Review by the Regional Body and/or review by the Council and to determine if it is administratively complete. The Originating Party also performs the technical review of the Proposal and provides an evaluation of the Proposal sufficient for a determination of whether the Proposal meets the relevant standards of the Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement and/or the Great Lakes-St. Lawrence River Water Resources Compact. During this time, the Originating Party, within their jurisdiction, also undertakes consultations with representatives of federally recognized Tribes in the U.S. as well as First Nations and provincially recognized Métis communities in Canada in the manner suitable to the individual Proposal and the laws and policies of the Originating Party, and includes any transcripts or meeting summaries of such meetings in any Application forwarded to the Regional Body and/or Council.

Pre-Application Period

1. Pre-application conference call meeting with Secretariat, Chairs of the Regional Body and Compact Council (as applicable)<sup>1</sup>, Originating Party and Applicant to discuss decision making process, budget and administrative arrangements including deadlines.
2. Originating Party communicates in writing to States, Provinces and Secretariat regarding impending submission of Application to approve a Proposal. (Minimum 30 calendar days—60 days preferred—before formal submission of Application to Regional Body and Compact Council<sup>2</sup>.)
3. Secretariat staff at the direction of the Chair(s) sets tentative schedules of official notices, briefings and meetings.
4. State/Provincial staff conference call meeting/web presentation with Applicant and Originating Party to review tentative schedules of official notices, briefings and meetings, and to receive technical briefing on the Application.
5. Regional Body and Compact Council provide notice of public meeting to approve budget for Application to approve a Proposal review process. (30 calendar days before meeting.)
6. Meeting<sup>3</sup> of Regional Body and Compact Council held to approve budget for a Proposal review process.<sup>4</sup>

---

<sup>1</sup> If an Application is from the chair's State or Province, the Vice Chair or another member should fill the role of Chair. [Agreement, Art. 401.5; Compact Guidance, Sec. 201.2.4.a]

<sup>2</sup> In the event that the Originating Party is a Province, all references to the Compact Council, Compact Council Review or the Compact Council Chair should be deemed removed from this process.

<sup>3</sup> Like all other meetings of the Compact Council and Regional Body, meetings may be held in person, by conference call, or other means that is open to the public. [Agreement, Art. 401.11; Compact, Sec. 6.1.1 and Bylaws, Art. IV, Sec. 2]

<sup>4</sup> This step and preceding step to be skipped if budget previously approved.

Attachment B  
Draft—December 6, 2018

7. Regional Body and Compact Council provide notice to representatives of federally recognized Tribes as well as First Nations and provincially recognized Métis communities in Canada and public of briefing (see Step 13) that will be open to the public. (Ideally 30 calendar days before the briefing.)

Filing of Application

8. Originating Party provides notice to the Regional Body, Compact Council, federally recognized Tribes as well as First Nations and provincially recognized Métis communities in Canada and public that it has determined that an Application to approve a Proposal is subject to Regional Review. [Agreement, Art. 501 and 504; Compact, Sec. 4.5.2 and 5.1.2]
9. Originating Party submits Application to approve a Proposal, accompanied by the Technical Review and the “Originating Party’s Proposed Declaration of Finding”<sup>5</sup> to Regional Body and Compact Council, by submitting to the Executive Director one original, and one copy for distribution to the Regional Body and Compact Council in electronic form in a common format that allows public accessibility (e.g. Adobe Acrobat PDF format).

Application Review Period

10. Regional Body and Compact Council provide the following notices of receipt of the complete Application to approve a Proposal (may be in electronic format, or noting where electronic documents may be accessed):
  - a. to federally recognized Tribes as well as First Nations and provincially recognized Métis communities in Canada, including a copy of the Application to approve a Proposal and “Originating Party’s Proposed Declaration of Finding”; and
  - b. to the public, including posting by the Secretariat of the Application to approve a Proposal to Regional Body and Compact Council websites and a link to Originating Party’s website for further information, and notice to persons and groups that have registered as having an interest in receiving notice of the Application to approve a Proposal.

These notices will indicate that the federally recognized Tribes as well as First Nations and provincially recognized Métis communities in Canada and the public, including those that have registered, have an opportunity to comment on whether the Application meets the Exception Standard. [Agreement, Art. 501, 504; Compact, Sec. 5.1, 6.2]

11. Regional Review and Compact Council Review begins.
12. Public comment period begins, with opportunity to provide comment electronically, hard copy or other means as appropriate.

---

<sup>5</sup> If the Originating Party declines to participate in the decision, it need not prepare this Originating Party’s Proposed Declaration of Finding, which should instead be prepared as a “Chair’s” or “Presiding Officer’s Proposed Declaration of Finding.” The Chair or presiding officer may direct another Party to create this draft and later make any necessary modifications to such Declaration of Finding.

Attachment B  
Draft—December 6, 2018

13. Regional Body and Compact Council hold initial briefing on the Application to approve a Proposal via conference call/webinar that will be open to federally recognized Tribes as well as First Nations and provincially recognized Métis communities in Canada and the public. Briefing includes:
  - a. Secretariat review of sequence of events for entire decision-making process including opportunities for federally recognized Tribes as well as First Nations and provincially recognized Métis communities in Canada and public participation.
  - b. Originating Party and Applicant review of the contents of the Application to approve a Proposal.
  - c. Originating Party presents Technical Review and “Originating Party’s Proposed Declaration of Finding.”
  - d. Regional Body and Compact Council announce and issue notice to federally recognized Tribes as well as First Nations and provincially recognized Métis communities in Canada and public of Regional Body and Compact Council public information meeting and hearing (see Step 15 below) and of meeting with federally recognized Tribes as well as First Nations and provincially recognized Métis communities in Canada (see Step 15.e below). As part of the notice, announce that questions to be addressed during the presentation at public meeting must be submitted in writing by a set date. Questions may still be asked at the public meeting, but will be addressed only as time permits.
  - e. Regional Body and Compact Council announce and issue notice to federally recognized Tribes as well as First Nations and provincially recognized Métis communities in Canada and public of Regional Body public meeting to consider final Declaration of Finding (see Step 21 below).
14. Regional Body and Compact Council members review Application to approve a Proposal, Technical Review and “Originating Party’s Proposed Declaration of Finding,” and may individually submit a written request for additional information to the Originating Party in a format to be prepared by the Secretariat. A copy of all such questions should be shared with the Secretariat. The members of the Regional Body and Compact Council are encouraged to submit all such questions before the deadline for completion of all technical reviews (see Step 18).

All such questions received by the Secretariat should be shared with the other members of the Regional Body and Compact Council. The Originating Party should respond in writing as appropriate to individual requests, with a copy to the Secretariat. All such responses are to be shared with all Regional Body and Compact Council members and will be included as part of the administrative record.

All questions and answers will be incorporated into the administrative record and will be made available to the public at the Q&A/Hearing in Step 15.

Public Meetings/Public Hearings

[Agreement, Art. 501; Compact Section 5.1; Interim Procedures Sec. 201.1; Interim Guidance, Sec. 201.1, 201.2]

15. Regional Body and Compact Council public information meeting to be held in Originating Party's jurisdiction with Members of the Regional Body and Compact Council to be physically present. Efforts should be made to allow federally recognized Tribes as well as First Nations and provincially recognized Métis communities in Canada as well as the public to remotely listen.
- a. *Part I—Public Information Meeting with Q&A.* Regional Body/Compact Council members present, Chair(s) preside(s). No recording or transcript must be taken of the event by the Regional Body or Compact Council.
    - i. Secretariat reviews sequence of events for entire decision-making process including opportunities federally recognized Tribes as well as First Nations and provincially recognized Métis communities in Canada and public participation (10 minutes).
    - ii. Originating Party and Applicant review contents of Application to approve a Proposal, Technical Review and “Originating Party’s Proposed Declaration of Finding”, during presentation address written questions received prior to the meeting (estimate approximately 20 minutes, but may change based on number of written questions received).
    - iii. Members, federally recognized Tribes as well as First Nations and provincially recognized Métis communities in Canada and public ask questions (preferably in writing) and receive verbal responses from Originating Party and Applicant on Application to approve a Proposal, Technical Review and “Originating Party’s Proposed Declaration of Finding.” Total question and answer period up to 90 minutes.
  - b. *Optional Part IIA.*—members of the Regional Body and Compact Council take tour of sites relevant to consideration of the Application. The tour is open to the public and a record of the tour is created and made available to the public.
  - c. *Optional Part IIB.*—pre-meeting Regional Body and Compact Council discussions (including Q&A with Applicant) on key issues. The pre-meeting is open to the public and a record of the meeting is created and made available to the public.
  - d. *Optional Part IIC.*—Application and Technical Review materials and other materials to be incorporated in the record are made available for inspection prior to the meeting.
  - e. *Part III—Meeting federally recognized Tribes as well as First Nations and provincially recognized Métis communities in Canada.* Regional Body/Compact Council members physically present. The Regional Body/Compact Council members hear from representatives from federally recognized Tribes as well as First Nations and provincially recognized Métis communities in Canada on the Application to approve a Proposal,

Attachment B  
Draft—December 6, 2018

Technical Review and “Originating Party’s Proposed Declaration of Finding.” Issues specific to each participating federally recognized Tribe as well as First Nation and provincially recognized Métis and community in Canada may be raised during this session. This session is recorded, and a transcript will be provided to the Regional Body and Compact Council members, as well as made available to the public.

- f. *Part IV—Public Hearing*<sup>6</sup>. Regional Body/Compact Council members physically present. A Hearing Officer presides. This session is recorded, and a transcript will be provided to the Regional Body and Compact Council members, as well as made available to the public.
- i. Application to approve a Proposal, Technical Review, “Originating Party’s Proposed Declaration of Finding” and any written requests and responses received will be incorporated into and made a part of the record.
  - ii. federally recognized Tribes as well as First Nations and provincially recognized Métis communities in Canada and public opportunity to make oral statements or present written statements for the record.
  - iii. Those who pre-register are limited to five minutes for oral statements/comment, and those registering on-site are limited to three minutes, unless otherwise extended by the Hearing Officer. Organizations wishing to make oral statements/comments will be limited to one speaker.
  - iv. Announcement of timeframe for submission of additional written materials and comments for the administrative record via electronic submission and hard copy.
16. Each member of the Regional Body and Compact Council may determine if there is sufficient public interest to hold an additional public meeting or public hearing within its jurisdiction. Based on such determination, at the request of a member the Regional Body and Compact Council may also hold either a public meeting or public hearing (the format of which will be at the host jurisdiction’s discretion) within the jurisdiction. If such a meeting is organized, only a representative of the host jurisdiction will be required to participate in such event. A transcript or summary of oral comments received should be created by the host jurisdiction. Any transcript created or, in the absence of a transcript, a written summary of comments received from the public, including oral comments or summaries drafted by Members of the Regional Body and Council, will be forwarded by the Secretariat to the Members of the Regional Body and Council and will be incorporated into the administrative record. Regardless, each Party will also take actions to ensure that the public within their jurisdiction has an opportunity to comment during the public comment period. Such actions may include providing direction to the members of that jurisdiction’s public on how to submit comments

---

<sup>6</sup> If the Originating Party is a Province, this session will be a Public Meeting only, and will be run accordingly (e.g. no Hearing Officer.)

to the Regional Body and Council, or hosting a public meeting or hearing as described in Step 15.

Post-Hearing<sup>7</sup> Review and Decision Process  
[Agreement, Art. 506; Compact Sec. 4.5.5]

17. Deadline for submission of written comments from the public to the Regional Body and Compact Council secretariat(s) for the administrative record via electronic submission and hard copy. Each Party to the Agreement or Compact should forward all written comments they have directly received as part of the Hearing to the Regional Body and Compact Council secretariat(s) to be incorporated into the administrative record.
18. Deadline for submission of any additional Technical Reviews by the Members (60 calendar days after submission of Application to approve a Proposal).
19. As appropriate, Originating Party, or another Party designated by the Chair or presiding officer if the Originating Party declines to participate, revises “Originating Party’s Proposed Declaration of Finding” based upon all input received through deadlines for submission of comments and Technical Reviews.
20. Final “Originating Party’s Proposed Declaration of Finding” posted by the Secretariat to Regional Body website 14 calendar days before public meeting of Regional Body.
21. Regional Body meeting<sup>8</sup>. [Agreement, Art. 506; Compact, Sec. 4.5.5]
  - a. Originating Party presents Application to approve a Proposal and Technical Review.
  - b. A motion is made to adopt “Originating Party’s Proposed Declaration of Finding.” Motions to amend (including substitution motions) may be made and considered. The members of the Regional Body should endeavor to submit all such motions to amend to the other members of the Regional Body, copying the Secretariat, one week before the meeting of the Regional Body. The Secretariat should make all such motions available to the public upon receipt.
  - c. The Regional Body, having considered the notice, Application to approve a Proposal, Originating Party’s Technical Review, any other Independent Technical Reviews, comments, questions and objections, including comments by the public and federally recognized Tribes as well as First Nations and provincially recognized Métis communities in Canada, and all other information in the record, considers motion to adopt proposed “Originating Party’s Proposed Declaration of Finding.” If all members agree, then Declaration of Finding with consensus to be considered for adoption. If no consensus is reached, then the Regional Body should work to achieve consensus within 25 days; if consensus still cannot be reached,

---

<sup>7</sup> If a Public Meeting is held instead of a Public Hearing, then this part of the sequence of events should equally apply to the Public Meeting.

<sup>8</sup> Meetings may be held face to face, via conference call or web as appropriate.

Attachment B  
Draft—December 6, 2018

- the Regional Body may consider a Declaration of Finding that presents different points of view and indicates each Party's conclusions.
22. Notification of Final Regional Body Declaration of Finding should be sent by the Secretariat to Originating Party, Compact Council,<sup>9</sup> Applicant, federally recognized Tribes as well as First Nations and provincially recognized Métis communities in Canada and members of the public who have registered their participation in the Application review process.
  23. Compact Council Chair issues draft Council Decision with any conditions. Council's goal is for the draft to be issued within sixty (60) days of receiving the Final Regional Body Declaration of Finding and at least fourteen (14) days prior to the meeting of the Council to issue the Council Decision. If the Chair's draft contains provisions or conditions not previously published for public comment and that are not a logical outgrowth of the subjects previously published for public comment, then the Compact Council will hold a 30-day public comment period on such provisions or conditions included in the Chair's draft. Comments may only be submitted in writing, electronically or in hard copy.
  24. Compact Council Secretariat gives notice to federally recognized Tribes as well as First Nations and provincially recognized Métis communities in Canada and public of Compact Council meeting to be held at least 30 calendar days after such notice is given (at least 7 days after the conclusion of any public comment period as per Step 23.)
  - 25.<sup>10</sup> Compact Council meeting to be held<sup>11</sup>.
    - a. Originating Party presents Application to approve a Proposal, Technical Review, and Regional Body Declaration of Finding(s). A motion is made to adopt the "Compact Council Chair's Proposed Council Decision." The Compact Council Chair's Proposed Council Decision should include a "comment and response" section.
    - b. Motions to amend (including substitution motions) may be made and considered. The members of the Compact Council should endeavor to submit all such motions to amend to the other members of the Compact Council, copying the Secretariat, one week before the meeting of the Compact Council. The Secretariat should make all such motions available to the public upon receipt.
    - c. Compact Council, having considered the notice, Application, Originating Party's Technical Review, any other Independent Technical Reviews, comments, questions and objections, including comments by the public and federally recognized Tribes as well as First Nations and provincially recognized Métis communities in Canada, Regional Body Declaration of Finding, and all other information in the record considers approval of Proposal. Approval shall be given unless one or more members vote to disapprove.
  26. Decision is certified by Compact Council Secretariat and forwarded to Originating Party, notice of decision to Applicant, Regional Body and Compact

---

<sup>9</sup> If Originating Party is not a Province.

<sup>10</sup> If the Originating Party is a Province, steps 23-27 are not applicable.

<sup>11</sup> Meetings may be held face to face, via conference call or web as appropriate.

Attachment B  
Draft—December 6, 2018

- Council members, federally recognized Tribes as well as First Nations and provincially recognized Métis communities in Canada, and members of the public who have registered their participation in the Application review process.
27. Originating Party takes action pursuant to Regional Body Declaration of Finding and Compact Council action as appropriate.
  28. The Secretariat should develop and make available to the public a complete administrative record that should include but not be limited to the following:
    - a. The entirety of the Application forwarded by the Originating Party to the Regional Body and Compact Council.
    - b. All public comments received.
    - c. All public notices provided by the Regional Body and Compact Council.
    - d. All transcripts created during the Regional Review and Compact Council review process.
    - e. All drafts of documents made available to the public
    - f. All questions on the Application submitted to the Originating Party from the members of the Regional Body and Compact Council as well as any responses received from the Originating Party.
    - g. Any other document relied upon or otherwise considered by the members of the Regional Body and Compact Council when reviewing the Application.