



October 19, 2016

Via E-mail and Certified Mail, Return Receipt Requested

Jill M. Hutchison, Esquire  
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**John Kasich**  
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Governor of Ohio

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**Scott Walker**  
Governor of Wisconsin

**Tom Wolf**  
Governor of Pennsylvania

**David Naftzger**  
Executive Director

Re: Final Decision on Application by the City of Waukesha:  
Request for Hearing

Dear Ms. Hutchison:

I am writing on behalf of the Great Lakes-St. Lawrence River Basin Water Resources Council (“Compact Council”) to set forth the next steps in the Compact Council’s review of the request for hearing submitted by your client, the Great Lakes and St. Lawrence Cities Initiative (“Cities Initiative”). Section 7.3.1 of the Great Lakes-St. Lawrence River Basin Water Resources Compact (“Compact”) provides in pertinent part: “Any Person aggrieved by any action taken by the [Compact] Council pursuant to the authorities contained in this Compact shall be entitled to a hearing before the Council.” Because the Compact does not specify the applicable hearing procedures, the Compact Council will look to general principles of administrative law for guidance. While potentially relevant to any future hearings regarding other actions of the Compact Council, the procedures employed here will not bind the Compact Council should circumstances warrant their modification.

The Compact Council is providing Cities Initiative with a meaningful opportunity to be heard regarding its September 16, 2016, “Written Statement in Furtherance of Request for Hearing and Compact Council Consideration” (“Cities Initiative Statement”). As hearing procedures utilized by other government agencies recognize, representation by legal counsel can assist a petitioner in presenting its contentions to an administrative agency. Accordingly, Compact Council considers your prior submissions to constitute an entry of appearance on Cities Initiative’s behalf. In addition, detailed written submissions identifying the petitioner’s challenges to agency actions and their factual and legal bases are often used to raise issues for an agency’s consideration. To this end, the Compact Council has reviewed your submissions to date and requires more specific information identifying the grounds for Cities Initiative’s request for hearing regarding the Final

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Decision, including the factual and legal bases for the various issues addressed in the Cities Initiative Statement.

Accordingly, the Compact Council requests that Cities Initiative submit a substantive brief containing the following information within forty-five (45) days of the date of this letter:

- a. Information limited to and expanding on the Cities Initiative Statement, including the specific grounds asserted, as follows:
  - i. Any alleged erroneous conclusion of law, or other error of law, must be separately identified and accompanied by an explanation of why it is erroneous, including citation to the legal authorities and references to the specific portions of the administrative record upon which Cities Initiative relies.
  - ii. Any alleged erroneous finding of fact must be separately identified and accompanied by an explanation of why it is erroneous, including references to the specific portions of the administrative record upon which Cities Initiative relies.
  - iii. Any grounds asserted with respect to the Final Decision that is not based in whole on an allegedly erroneous conclusion of law or finding of fact must be separately identified and accompanied by an explanation of the grounds asserted and references to the specific portions of the administrative record upon which Cities Initiative relies.
  - iv. Any grounds asserted with respect to the Final Decision that is based on technical or scientific opinions, analyses or data must be supported by an explanation of why the opinions, analyses or data relied on by Compact Council are erroneous or invalid, with citations to the specific portions of the administrative record containing reports, data or other information upon which Cities Initiative relies.
  - v. The specific portions of the administrative record in which each of the issues raised in the Cities Initiative Statement were raised must be cited, or reasons must be set forth explaining why Cities Initiative did not raise the issue during the public comment period. The Compact Council will consider the record citations

and/or explanation in deciding whether the issue is properly raised at this time.

- b. A showing that Cities Initiative is an “aggrieved person,” supported by affidavits or declarations of persons with first-hand knowledge of the facts.
- c. If Cities Initiative requests an opportunity for oral argument on the issues raised in the Cities Initiative Statement, the reasons why oral argument should be allowed.
- d. Such further information as Cities Initiative deems relevant to its request for hearing.

To the extent that portions of the Cities Initiative Statement contain information responsive to this letter, feel free to include this information in the corresponding portions of your brief. After reviewing your brief, Compact Council will notify you of the next steps in the process.

Very truly yours,

A handwritten signature in black ink, appearing to read "David Naftzger". The signature is stylized and cursive.

David Naftzger  
Executive Director

cc: Compact Council