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DATE: January 2, 2007
TO: John Stolzenberg and Rachel Letzing
FROM: Chuck Ledin
SUBJECT: Response to "held in trust" language concerns

At the last committee meeting, several questions arose, because of discussions in Ohio, regarding the "held in trust" language in the proposed compact agreement and the resultant implications for Wisconsin. The concerns were based on incorrect interpretations that this language would change water rights law in Wisconsin.

The following three points summarize my presentation:

- This language was a restatement of language in the 1985 Great Lakes Charter asserting state and provincial authority to manage Great Lakes waters. When Wisconsin incorporated provisions of the Charter into State Law, Act 60 in 1985, a nearly identical statement was included in the purpose and intent section. Therefore this "held in trust" language has been in Wisconsin law for over 20 years without changing state water rights.
- The draft compact also includes statements (Paragraph 8 on page 43 of the legislative council staff's draft) clearly affirming that the compact does not change property rights or common law water rights in any of the 8 states.
- Public Trust is a concept established in the Wisconsin Constitution and refined through case law. Legislative action on the proposed compact would neither change the Wisconsin Constitution nor the constitutional case law history.

For these reasons, the concerns advanced by the state senator from Ohio have no relevance to the water resource management framework in Wisconsin and as a result, no changes to the "held in trust" language are warranted.

C: Jill Jonas
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