

**Governance of Public Sector-Nonprofit Sector Coalitions:
Social Learning and Negotiated Order Processes¹**

Bruce C. Gockerman
(bcgockerman@sbcglobal.net)
Of Counsel, Gockerman, Wilson, Salyor & Hesslin, P.C.
Chicago, Illinois and Manistee, Michigan
&
Case Western Reserve University
Weatherhead School of Management
Cleveland, Ohio USA

**International Conference on Adaptive and Integrative
Water Management
[CAIWA]
November, 2007
Basel, Switzerland**

[Originally presented at the:
35th Annual ARNOVA Conference
November, 2006, Chicago, Illinois, USA
&
Swedish International Water Institute
World Water Week
August, 2007, Stockholm, Sweden]

¹ Abridged from the author's comprehensive papers: "Great Lakes Compact 2005: A Collective Action to Protect the Great Lakes –St. Lawrence River Basin By Building a Multi-Jurisdictional Government Regimen Based on Cooperative Horizontal Federalism: Overcoming Barriers to Collective Action through Governance, Leadership and Social Learning as Negotiated Order & Decision Making Processes" (May 2006), and "Inter-Sector Decision Making: Governance, Social Learning, Negotiated Order and Emergent Leadership as Adaptive Responses to System Complexity" (January 2007) [www.case.edu/weatherhead/edm].

Work Shop: Making Governance Systems Effective
Category: Governance/Decision Making in Complex Environments

Introduction:

Organizational effectiveness is dependent upon effective and competent governance.

Governance within the public sector is unique because its structure takes the form of elected and appointed officials who are legally obligated to provide such governance.

The structure is significantly rule based, but most important, transparency in decision making is mandated by state and federal open meeting and freedom of information acts.

Such transparency distinguishes public from private and not-for-profit forms of governance, notwithstanding the efforts to build substitutes for transparency in those

other sectors. Because the policy choices and factual basis for those choices are made under the spot light public transparency provides, the demand for detailed facts and

development of policy alternatives takes a dominate role in public sector decision-making process compared to the private and not-for-profit venues. Further, public governance

and policy can affect substantial numbers of organizations and persons in the broader society, which dictates that a broader consideration of stakeholders must be consulted or

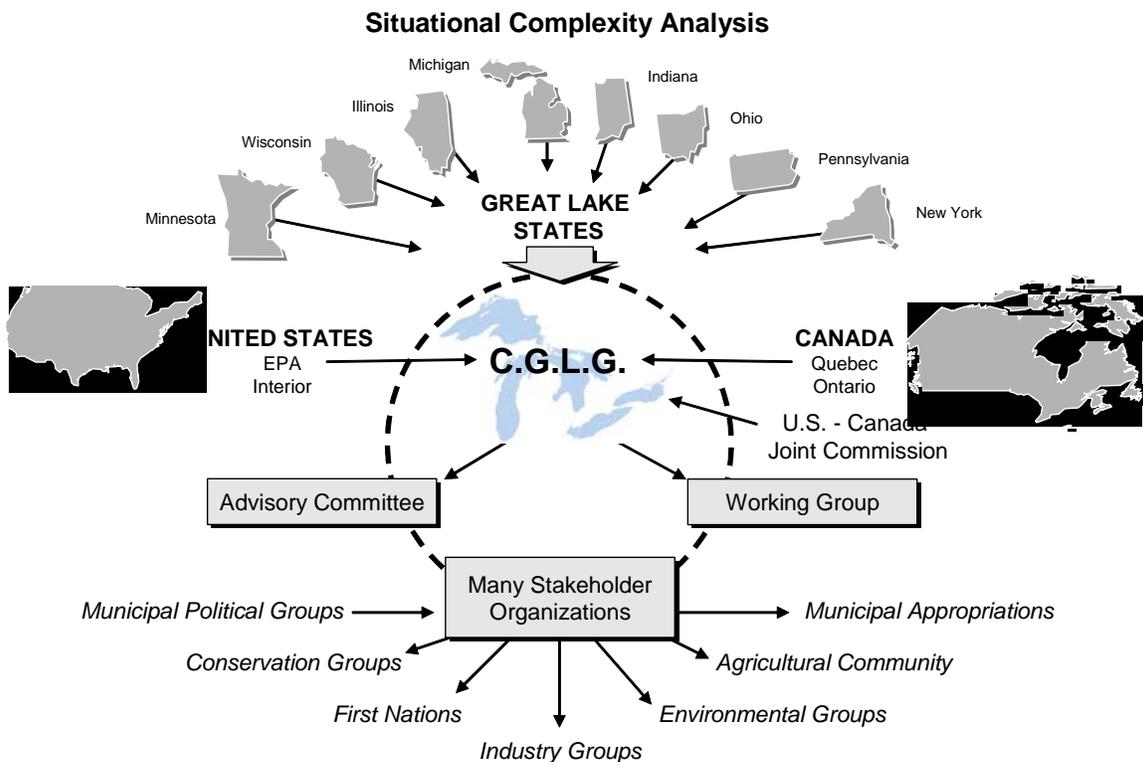
included in some way in the development of public policy, especially in the governance of the commons (common pool resources). While a publicly traded corporation may be

required to comply with SEC reporting and governance standards, the actual direct responsibility is to a limited number of members of a board of directors. The same is true

in the Not-for-Profit Sector. Ultimately, responsibility is to a limited board of directors and possibly to a membership, such as in the world of electrical co-ops. Public Sector

governance is complicated exponentially because of the situation complexity faced by public governance actors.

The effort of the Great Lakes States (Minnesota, Wisconsin, Illinois, Indiana, Michigan, Ohio, Pennsylvania and New York) to create a regional regimen of water quality and quantity standards for the Great Lakes St. Lawrence River Basin exemplifies situation complexity. It demonstrates the difficulty in developing and executing policy that requires substantial cooperation, coordination and political support. And, some of the Great Lakes water resources are owned by Canada and her provinces of Ontario and Quebec, making the already complex processes of governance that much more layered, complex and difficult to navigate. The complexity shown graphically is:



An examination of the detailed processes of Governance and decision making reveals how the Council of Great Lakes Governors (CGLG) reached agreement on a proposed regional water management regimen for the Great Lakes. The points of interest for this

SIWI World Water Week Workshop discussion are: (1) the Governance structure employed, which allowed the public policy development process to proceed without full transparency; and (2) the decision making processes whereby social learning and negotiated order were the critical decision making models used to reach the goal of a constitutional [proposed] compact.

Discussion:

The Governance Structure and Decision Making Process are the critical parts of this study.

Governance Structure:

Because the various waters of the Great Lakes are owned by the Great Lake States under the public trust doctrine², there can be no meaningful protective collective action without the involvement of those multiple jurisdictions. Further, states do not have the legal authority to enter into enforceable agreements with one another. Rather, they must follow the U.S. constitutional process of developing an interstate compact, which must be approved by both houses of the U.S. Congress. This complexity is further compounded by the fact the waters establish international borders with Ontario and Quebec, Canada. To be enforceable as between Canada and the United States, a formal treaty is necessary.

The governors and premiers used the Council of Great Lakes Governors [CGLG], a NGO they established, as a mechanism to organize the governmental collective effort. While ownership of the water resources may reside in the political jurisdictions, marshalling sufficient political support required engaging many stakeholder groups in the process including conservation, environmental, municipal and industrial representatives.

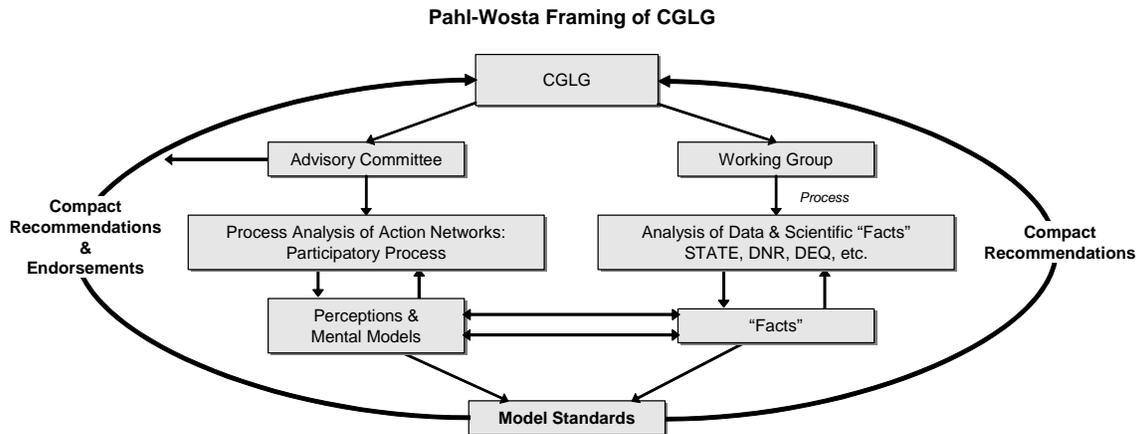
The Structure of the CGLG was comprised of two major sections, The Working Group and the Advisory Committee. The Working Group was comprised of governor appointments and was charged with the overall responsibility of crafting the agreements the states and provinces would subsequently approve. The Working Group had three sub-committees: a technical committee, a compact committee and an international committee. The Advisory Committee (advisory to the Working Group), consisted of stakeholder organizations selected and asked to participate by the CGLG. Interestingly, this method of using the CGLG, the Advisory Committee and the Working Group to develop public policy and craft implementing agreements *were not* subject to open meeting and freedom of information acts, which would be the case if a government to government structure had been used. Indeed, participants in the process recognized that open and frank discussions and tough negotiations required *not* working in the spotlight of transparency. Only in a private or semi-private setting could official organizational position statements be set aside and the expression and debate of vital and fundamental interests begin. On the other hand, the Advisory Committee operated in a more open fashion until such time as negotiations became focused and intense. In retrospect, as one Participant noted, the CGLG structure allowed the Working Group to work privately while the Advisory Committee acted as the open political foil for the contentious stakeholders and their members and the press.

This is not to say that the governance structure worked seamlessly- quite to the contrary. It remained a work in process throughout the four years of compact development. For example, the Working Group sub-committee structure did not work well and evolved into

² The Public Trust Doctrine means that the ownership of the the water resources of the Great Lakes are owned by the state political jurisdiction and held in “trust” for all the citizens of that state.

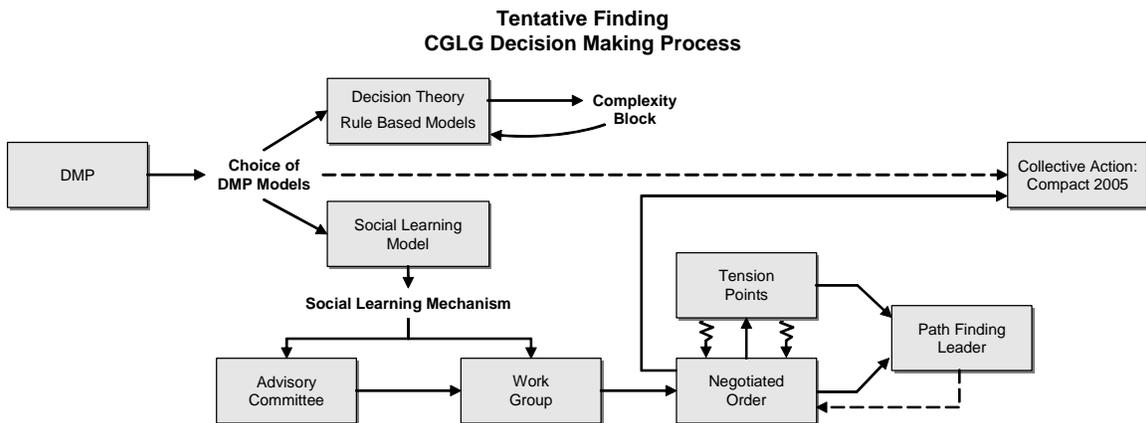
a “committee as a whole”. And, a small “management team” was formed to assist the Working Group and functioned similar to an informal board of directors providing a certain leadership.

The general structure of governance is depicted as:



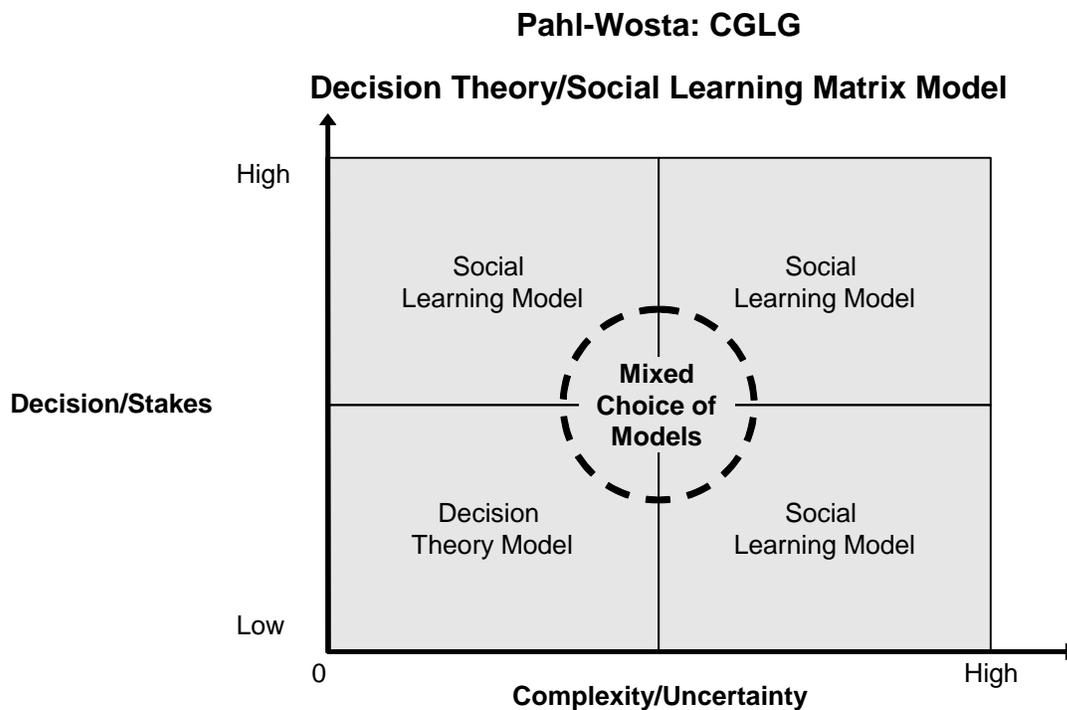
Decision Making Process:

The decision making processes of the CGLG was necessarily complex. Common rule based decision processes are block by the sheer complexity of the Great Lakes ecological, social, political and legal systems. This compelled a social learning decision process by the CGLG and is depicted below:



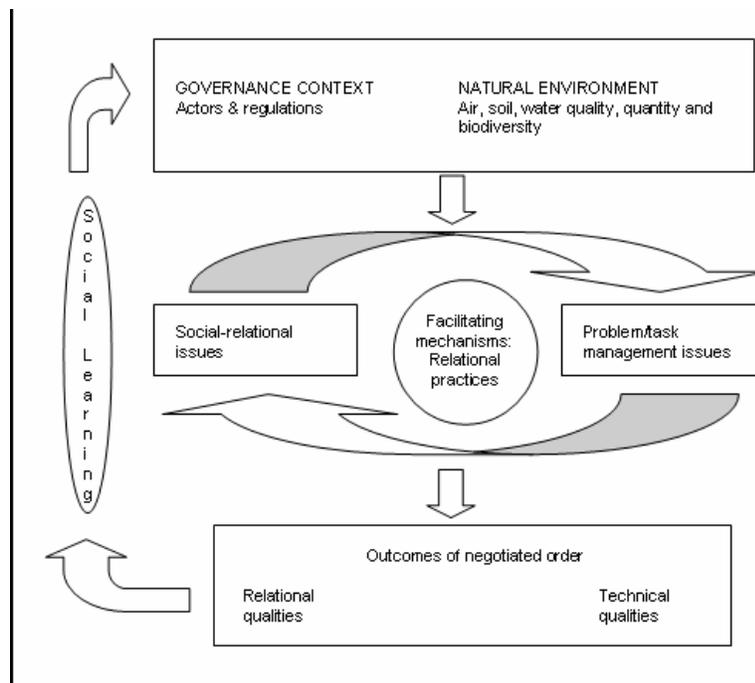
Social Learning & Negotiated Order:

Social learning and negotiated order are productive ways to view decision-making in thickly layered and complex collaborative efforts. They are distinct concepts with some overlapping elements. And, they stand as alternative forms of learning, knowing, problem definition, alternative policy development and decision choice in a venue where the stakes involved are high and the nature of the problem and solution choices are complex and uncertain (Bouwen & Taillieu (2004):



Both social learning and negotiated order stand as alternatives to the classical goal oriented approach to decision making (Pahl-Wostl, 2002). Classical, goal orientated decision making is focused on the goals of the decision making process rather than the decision process itself. An appropriate metaphor is using the quadratic equation for an appropriate math question. There is a given model to produce an answer to the posed question. The search is one of identifying and quantitative data and “calculating” an

answer or solution for the equation. Classical decision making is based upon the assumption that decision choices can be optimized in a closed conceptual space. The classical method may well be appropriate if the considered problem is well defined and uncertainties can be and are reduced and quantified. However, the process of collaborative action as between organizations, or within a given organization, is not so linear. Where there is significant complexity and uncertainty as to the problem presented or the appropriateness and efficacy of the possible decisions, the better route to decision alternatives and choices may be, and may need to be, much more circuitous and complex. For example, where the need for organizational or structural transformation underlies the problem under consideration, social learning and negotiated order are such alternative decision-making models. These alternative models focus on the process of the decision-making, rather than the decision itself. They represent *interactive* and *iterative processes* in the search for facts, problem framing, and generation and acceptance of alternative decision choices (Bouwen, 2004; Pahl-Wostl, 2002).



The process of such decision making becomes a search for facts, problem framing, generation of policy or choice, and selecting amongst the alternatives. (Bouwen & Taillieu, 2004). Inter-organization collaboration and intra-collaboration within organizations is a difficult process. Social learning captures the interactive and iterative nature of the process of decision making in such a venue. The literature identifies relational and problem solving activities as underlying the process.

Relational activities are network focused on those involved or interested in the problem and include capturing the interest of stakeholders, mobilization of commitment to collaboration, connecting interest holders, negotiating roles and identities and aligning efforts and agreements. Problem solving activities focus on the knowing, learning and fact-finding. Problem solving activities include sharing perspectives on the issues, defining and identifying common issues and resources, generating and sharing information, exploring alternatives, selecting a strategy, planning action steps, implementation of choice and evaluating outcomes. These types of activities are interactive and iterative as policy choices evolve in the collaborative effort.

In the CGLG context, interviews of process participants clearly established that the social learning processes built relationships between participants, which evolved into respect and trust. Once some level of respect and trust was established negotiations began in earnest. Negotiated Order can be a part of social learning and in the case under study came out of social learning. It also can be a form of decision making itself.

Negotiated Order involves negotiating, explicitly or implicitly, formally or informally, the terms under which organizations (or peoples) will interact with one another presently or in the future. Terms of the negotiated order are fluid and are readily subject to changes

as new events occur or new parties become involved. They are not mere modifications of established order. The terms of the order are new and are continuously reconstituted as needed (Nathan & Mitroff, 1991). Thus, negotiated order can have present, planned and emergent elements. It evolves into the interactive and iterative mode of the social learning decision-making model and has been identified as a key part of organizational effectiveness, leadership and “skilful process” (Hosking & Morley, 2003).

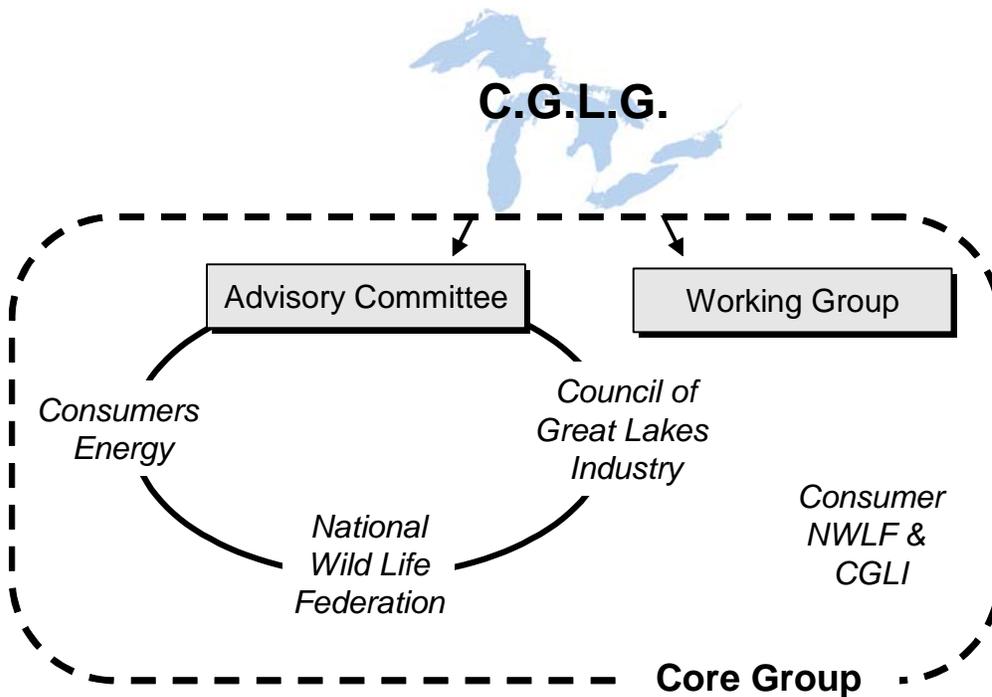
Negotiated order is particularly useful in complex situations where problem framing may be difficult and in domains where substantial networks have, or need to be, developed. Like social learning, negotiated order is a decision-making model appropriate for complex situations where problem identification and framing exist and effectiveness of decision choices pose significant uncertainty.

The research project underlying the current panel discussion was a qualitative study undertaken to determine the roles of leadership, governance and decision-making processes in the thickly layered and complex political and social environment of the Great Lakes St. Lawrence River Basin.

Social learning and negotiated order is a common form of evolving policy alternatives and decision making in the public sector. Admittedly, those processes of decision making take longer in the public sector, but the more detailed, interactive, iterative and evolutionary nature of assembling facts, problem framing, policy alternative generation, and policy choices – an appreciative inquiry [Cooperrider & Whitney 1999]- tends to result in better decision-making over time. It is a process from which the private and not-for-profit sectors can learn important governance lessons.

Notwithstanding the complex and difficult geo-political situation, within the Working Group and Advisory Committee had to work, remarkable few people were involved at the tough level of the negotiated order. This comports with Core Group Theory. In the CGLG situation that core group consisted of representatives of the Working Group, a conservation group, an industry group and a representative from a major industry water user. This was the core group that was the major architect(s) of the compact and the sustainable water resources agreements.

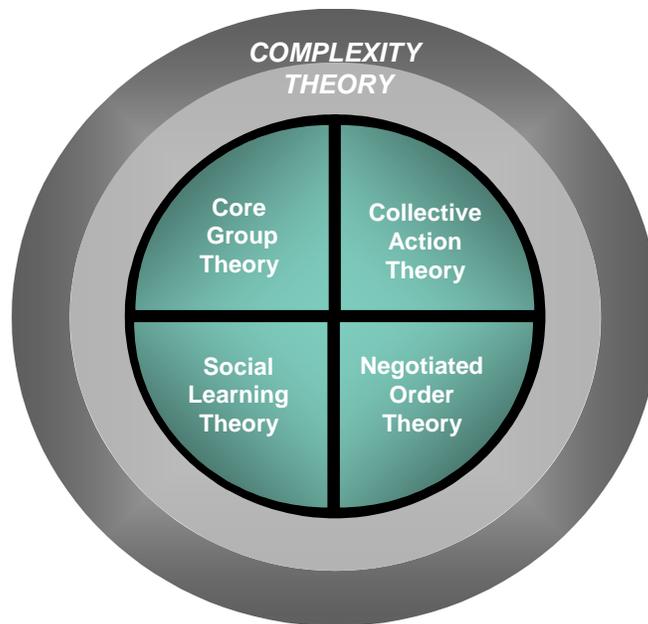
Core Group Governance Structure



Concluding Comments

The results of this study have implications for practitioners and researchers interested in how to improve organizational effectiveness in complex multi-party settings by implementing and improving social learning and negotiated order as a decision making

model. There is a constellation of theories at play including collective action theory, decision sciences, core group theory, etc. Some of these are complementary and overlapping. What this author considered the integrating notion is complexity theory. That is, organizations are complex creatures, existing and operating in a complex and changing larger environment. When that environment changes, the organization must react to that change. The CGLG is such a complex organization. In response to the threat of mass water diversions outside of the Great Lakes Basin, it responded by adapting to that change by evolving a new regulatory regimen, using a complex social learning process to produce that new regimen. So, I suggest that that Complexity Theory may be the integrative mechanism to link the major concepts of Core Group, Collective Action, Social Learning, and Negotiated Order Theory.



Finally, the process of evolving an new and enforceable regulatory regimen on the Great Lakes water resources is not complete. At the time of writing this paper the CGLG water agreement is pending in the various state legislatures of the Great Lakes States. Only Minnesota and Illinois have passed the legislation. It is pending in the others. Time will tell if the effort is ultimately successful.

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