

THE GREAT LAKES-ST. LAWRENCE RIVER BASIN AGREEMENT: WHAT HAPPENS IN THE GREAT LAKES WON'T STAY IN THE GREAT LAKES

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This article provides a discussion of the current protections provided for the Great Lakes, and calls for an international binding agreement to ensure their continued protection. All past agreements between the United States and Canada to protect the Lakes have been purely good faith, and have no binding effect on the parties. The Great Lakes states and provinces have committed themselves to a good-faith agreement that bans all major withdrawals or diversions, subject to three exceptions. This Agreement has no legally binding effect on the states and provinces. The states, however, have created a legally binding Compact that does not include the Great Lakes provinces. The Great Lakes states have the power to make decisions regarding major withdrawals or diversions of Great Lakes water without the consent of the provinces. Although the current protections are morally binding, they will not provide enough protection for the Lakes given the increased concerns over water quality and quantity issues across the world. The federal governments of the United States and Canada should enter into a legally binding agreement to ensure the long-lasting enjoyment and protection of the Lakes.

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INTRODUCTION

The Great Lakes-St. Lawrence basin is one of the most colossal systems of fresh water in the world. Sitting in the heart of North America, the Great Lakes contain about 6 quadrillion gallons of fresh water,¹ amounting to 84 percent of North America’s fresh water, and 21 percent of fresh water in the world.² Their shorelines stretch over 10,000 miles, and contain nearly 35,000 inlands.³ The Great Lakes are more than a supply of freshwater; they provide astonishing scenic, recreational, and economic benefits to residents of the United States and Canada and to visitors from across the globe.⁴

“The traditional view [that] the Great Lakes are an endless source of [fresh] water” is not a sustainable one.⁵ Although the Great Lakes may seem like an endless resource, less than one percent of Great Lakes water is “renew[ed] through precipitation, surface water runoff, and groundwater recharge.”⁶ With the increasing scarcity of fresh water, pressure has built to export water from the Great “Lakes for uses outside their watershed.”⁷ Two countries, eight states, two provinces, and several First Nations and tribes have long shared concerns about diversions and withdrawals of Great Lakes water to outside the watershed as demands

1. *Great Lakes Facts and Figures*, GREAT LAKES INFO. NETWORK, <http://www.great-lakes.net/lakes/ref/lakefact.html> (last updated Mar. 13, 2017).

2. Sara R. Gosman, *Water Withdrawals in Michigan*, 90 MICH. B.J. 20, 20 (2011).

3. Mark S. Squillace, *Rethinking the Great Lakes Compact*, 3 (Legal Studies Research Paper Series, Working Paper No. 07-01, 2007).

4. Bradley Karkkainen, *Contemporary Issues in Minnesota Water Law: The Great Lakes Water Resources Compact and Agreement: Transboundary Normativity Without International Law*, 39 WM. MITCHELL L. REV. 977, 1001 (2013).

5. Marcia Valiante, *Harmonization of Great Lakes Water Management in the Shadow of NAFTA*, 81 U. DET. MERCY L. REV. 525, 527 (2004).

6. Gosman, *supra* note 2.

7. Joseph W. Dellapenna, *Emerging Challenges to Good Governance in the Great Lakes: Changing Legal Regimes: Changing State Water Allocations Laws to Protect the Great Lakes*, 24 IND. INT’L & COMP. L. REV. 9, 51 (2014).

for water increase.⁸ In an attempt to protect the Lakes, the eight Great Lakes states and two Great Lakes provinces entered into a good-faith agreement that bans all diversions and exports of Great Lakes water, subject to three exceptions.⁹ This good-faith agreement is known as The Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement (“Agreement”).¹⁰ Although the Agreement is a substantial step toward stronger protection of the Great Lakes, it still falls short of what is necessary to protect the Lakes. A balance between protecting the Great Lakes and helping those areas suffering from declining water quality and scarcity issues is needed.

Part I of this article will briefly discuss how the United States and Canada have traditionally approached water management legislation, outline the history of Great Lakes protections, describe agreements that are in effect today, and discuss the enforceability of such agreements. Part II will outline current international and North American water crises and how these crises will impact the good faith protections put in place on the Great Lakes. Finally, Part III of this article will argue that the current good faith protections for the Great Lakes are not enough to ensure their long-lasting enjoyment and protection. Part III will also emphasize the need for a binding international agreement between the states and provinces containing sanctions for non-compliance in order to protect the Great Lakes given the increasing water quality and quantity issues arising across the world.

8. Ellen Kohler, *Ripples in the Water: Judicial, Executive, and Legislative Developments Impacting Water Management in Michigan*, 53 WAYNE L. REV. 1, 26–27 (2007).

9. Great Lakes-St. Lawrence River Basin Water Resources Agreement (2005), http://www.glsrregionalbody.org/Docs/Agreements/Great_Lakes-St_Lawrence_River_Basin_Sustainable_Water_Resources_Agreement.pdf [hereinafter Great Lakes Agreement].

10. *Id.*

PART I: BACKGROUND

A. Federalism and Water Management Approaches in the United States and Canada

The United States and Canada take similar approaches to national and international water management. Although federal governments have power over water management, they appear to leave control in the hands of the states and provinces.¹¹ Because watersheds like the Great Lakes are managed by two-or-more states or provinces, stronger federal leadership is necessary to ensure consistency and long lasting protection of fresh water.¹²

In the United States, fresh water protection has used several “components of the constitutional federalism framework.”¹³ Federalism, “the constitutional balance of power between [two] units of government,” appears in two forms: vertical and horizontal.¹⁴ Vertical federalism is “the relationship between the federal . . . and state governments,” whereas horizontal federalism is the relationship between state governments.¹⁵ Because water resources often cross state boundaries, interstate water management in the United States “has been addressed primarily though horizontal federalism.”¹⁶ The federal government has typically “left protection of water . . . resources to the states[,] and is likely to continue to do so.”¹⁷ In the absence of congressional action, the states are left to manage water resources, which

11. See Karla Zubrycki, et al., *Water Security in Canada: Responsibilities of the Federal Government*, INT’L INST. FOR SUSTAINABLE DEV. (Apr. 2011), http://www.iisd.org/sites/default/files/publications/water_security_canada.pdf; see also Adam Reimer, *U.S. Water Policy: Trends and Future Directions* 7, 30 (Nat’l Agricultural & Rural Dev. Policy Ctr., Working Paper, 2013).

12. See Zubrycki, *supra* note 11, at 7, 30; see also Reimer, *supra* note 11, at 28–32.

13. Noah Hall, *Toward a New Horizontal Federalism: Interstate Water Management in the Great Lakes Region*, 77 U. COLO. L. REV. 405, 409 (2006).

14. *Id.*

15. *Id.*

16. *Id.* at 410.

17. *Id.*

has traditionally been done through some form of interstate compact.¹⁸ If the states wish to enter binding water resource agreements with the Canadian government, they must do so with the consent of Congress.¹⁹

The Canadian Constitution of 1867 lays out legislative responsibilities for water management in Canada.²⁰ Responsibility for water management is divided between the federal and provincial governments.²¹ Much overlap exists between both levels of government, because the Constitution grants jurisdiction over the water supply to the provincial government, and grants jurisdiction over transboundary waters to the federal government.²² However, there has been an “absence of national-level leadership” in terms of water management, which has forced provincial governments to “independently create[] their own water management policies.”²³ While there is significant power available to both levels of government for water management, “the default position [to] water management in Canada [has been] provincial regulation.”²⁴

B. Legal History of Protections Placed on the Great Lakes

An overview of past Great Lakes protections is necessary before an analysis of the gaps in the existing water management system can be made. The Boundary Waters Treaty of 1909 (“Treaty”) was the first attempt to curb concerns about diversions of Great Lakes water.²⁵ The

18. *Id.*; Jessica Bielecki, *Managing Resources with Interstate Compacts: A Perspective from the Great Lakes*, 14 BUFF. ENVTL L.J. 173, 187 (2007) (“Interstate compact[s] are] . . . formal, legally binding agreement[s] between two or more states regarding an interstate issue.”).

19. Annie Chaloux & Stéphane Paquin, *Water Resource Management and North American Green Paradiplomacy: The Case of the Great Lakes – St. Lawrence River Basin* 12 (Can. Res. Chair in Int’l and Comp. Pol. Econ., Working Paper No. 1, 2013). [/60/Water%20Resource%20Management%20and%20North%20American%20Paradiplomacy%200.pdf](#).

20. Zubrycki et al., *supra* note 11, at 17.

21. *Id.* at 6.

22. *Id.* at 17.

23. *Id.* at 1.

24. J. Owen Saunders, *Managing Water in a Federal State: The Canadian Experience*, in FEDERAL RIVERS: MANAGING WATER IN MULTI-LAYERED POLITICAL SYSTEMS 80 (Dustin Garrick et al. eds., 2014).

25. Kohler, *supra* note 8, at 27.

Treaty solely addressed boundary waters, which are lakes and rivers along international boundaries between the United States and Canada.²⁶ The Treaty did not cover Lake Michigan, because it is not a boundary waterway, nor did it cover ground water.²⁷ The Treaty “is still in effect today” between the United States and Canada, “but has been supplemented by . . . [several] . . . Water Quality Agreements.”²⁸ More importantly, the Treaty formed the International Joint Commission (“IJC”), which oversees diversions of water affecting “the natural level or flow of boundary waters,”²⁹ and oversees “extremely large diversions.”³⁰ The IJC still exists today, and “helps anticipate, prevent, and resolve disputes between the two countries in an independent and impartial manner.”³¹ Further, the IJC serves as a mechanism for coordination between the states and provinces, and “investigat[es] environmental issues of mutual [concern] along the border.”³²

No new protections were put in place until 1955, when the states entered into the Great Lakes Basin Compact (“Basin Compact”), which was “an attempt at regional management” of the Lakes.³³ The purpose of the Basin Compact was to promote conservation methods of the Great Lakes Basin and to “maintain[] a proper balance among industrial, commercial, . . . residential,” and other uses of Great Lakes water.³⁴ The agreement created the Great Lakes Commission, which is tasked with the duty of “collect[ing] data and mak[ing] water management recommendations” to the states.³⁵ A major downfall of the Basin

26. Treaty Between the United States and Great Britain Relating to Boundary Waters Between the United States and Canada, Gr. Brit.-U.S., prelim. art., Jan. 11, 1909, 36 Stat. 2448 [hereinafter *Boundary Waters Treaty*].

27. Kohler, *supra* note 8, at 27.

28. Bielecki, *supra* note 18, at 177.

29. *Boundary Waters Treaty*, *supra* note 26, art. III.

30. Kohler, *supra* note 8, at 27 (stating that Article III of the *Boundary Waters Treaty* prohibited new diversions of Great Lakes Water that would “affect[] the natural level or flow of boundary waters.”). Article III, however, did not further define or quantify what the natural level or flow is. *Boundary Waters Treaty*, *supra* note 26, art. III.

31. *Shared Waters: Canada – United States*, ENV’T AND CLIMATE CHANGE CAN., <http://www.ec.gc.ca/eau-water/default.asp?lang=En&n=B947BAA8-1> (last modified Apr. 24, 2014).

32. *Id.*

33. Kohler, *supra* note 8, at 27.

34. MICH. COMP. LAWS § 324.32201, art. I (2005) (*Great Lakes Basin Compact*).

35. Kohler, *supra* note 8, at 27.

Compact is that it is not legally binding.³⁶ Any recommendations made by the Commission are advisory only, and it therefore has no actual legal authority to enable it to protect the Lakes.³⁷ The Basin Compact has not shaped the laws governing the Great Lakes' protection, nor has it "had any substantive impact on water rights in the basin."³⁸

Thirty years after the Basin Compact came into effect, "the Great Lakes governors and premiers signed the Great Lakes Charter" ("Charter") in 1985.³⁹ The Charter was implemented in response to the threat of diversions and consumption of Great Lakes waters that would "have significant adverse impacts on the environment, economy, and welfare of the Great Lakes region."⁴⁰ The Charter "created obligations for consultation and collaborative review of proposed diversions," as well as state management of water usage.⁴¹ It also contained a provision "call[ing] for the establishment and maintenance of a regional system for the collection of data on major water uses, diversions and consumptive uses" of the Great Lakes.⁴² The Charter established the Great Lakes St. Lawrence River Regional Water Use Database ("Database"), which is responsible for collecting data concerning the Great Lakes water use.⁴³ The "Database has been operational since 1988[.]" and posts annual reports outlining consumption and diversions of the lakes.⁴⁴ The Database will be discussed more thoroughly in Part II of this article. Although the Charter was a step in the right direction by requiring monitoring and data collection concerning water use, "it has floundered in implementation."⁴⁵ Like the Great Lakes Basin Compact, the Charter is a non-binding good-faith agreement, so compliance has been

36. *Id.*

37. *Id.* at 28.

38. Hall, *supra* note 13, at 423.

39. Kohler, *supra* note 8, at 28.

40. COUNCIL OF GREAT LAKES GOVERNORS, THE GREAT LAKES CHARTER: PRINCIPLES FOR THE MANAGEMENT OF GREAT LAKES WATER RESOURCES 1 (Feb. 11, 1985).

41. Kohler, *supra* note 8, at 28.

42. GREAT LAKES COMM'N, ANNUAL REPORT OF THE GREAT LAKES COMMISSION: WATER USE DATABASE 3 (2014), <http://projects.glc.org/waterusedata/pdf/wateruserpt2014.pdf>.

43. *Id.*

44. *Id.*

45. Bielecki, *supra* note 18, at 180.

unpredictable.⁴⁶ The information required for the Database was only sporadically updated until recently, and no plans for management were put in place.⁴⁷

The following year in 1986, Congress enacted the Water Resources Development Act (“WRDA”) requiring Great Lakes governors to approve diversion proposals out of the Great Lakes Basin.⁴⁸ Under the WRDA, every Great Lakes governor has the power to reject a proposed diversion.⁴⁹ In a 2000 amendment, Congress included a provision in the WRDA “[t]o encourage the Great Lake States, in consultation with the Provinces of Ontario and Quebec[]” when making withdrawal decisions.⁵⁰ The WRDA is legally binding on the states, and represents “Congress’[s] intent to leave Great Lakes water management to the states.”⁵¹ The WRDA suffers from serious limitations as “it only addresses diversions,” and provides no “decision-making standards” for approval or denial of diversions.⁵² These limitations made the WRDA susceptible to legal claims.⁵³ Some change was necessary, as it was unlikely that the states and provinces in the basin would continue to maintain authority over fresh water management.⁵⁴ A new tool for water management “would have to address both the Basin’s desire to retain authority over withdrawal decisions and any future attempts to tap into the Great Lakes.”⁵⁵

On June 18, 2001, the governors and premiers of the Great Lakes states and provinces signed yet another good-faith agreement, the Great Lakes Charter Annex (“Annex”).⁵⁶ The purpose of the Annex was to “bridge the gap between the Charter and the WRDA.”⁵⁷ The Annex

46. Kohler, *supra* note 8, at 28.

47. Bielecki, *supra* note 18, at 180.

48. Kohler, *supra* note 8, at 28.

49. Hall, *supra* note 13, at 429.

50. *Id.*

51. *Id.*

52. Kohler, *supra* note 8, at 28.

53. Bielecki, *supra* note 18, at 180–81.

54. *Id.*

55. *Id.*

56. *Id.*

57. Jeffrey Edstrom et al., *An Approach for Identifying Improvements Under the Great Lakes Charter Annex 2001*, 4 TOL. J. GREAT LAKES’ L. SCI. & POL’Y 335, 336 (2002).

builds on the Charter and creates a standard of review for both withdrawals and diversions.⁵⁸ At the time of its inception, the Annex “was a breakthrough not only for the Great Lakes, but also for water management in general.”⁵⁹ The Annex created “unprecedented protections” to the Lakes, “including a commitment from the [governors and premiers] to make all water withdrawal decisions” collectively.⁶⁰ The Annex has set the stage for the creation of the new Agreement, which is the main focus of this discussion.

The Great Lakes premiers and governors recognized the shortcomings of the above described protections put into place over the past 100 years, and sought to implement legally binding agreements. The governors of the eight Great Lakes states and premiers of two Canadian provinces signed the Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement (“Agreement”) on December 13, 2005.⁶¹ The Agreement is “implemented in Ontario and Québec through [p]rovincial laws, and in the [s]tates, through the Great Lakes-St. Lawrence River Basin Water Resources Compact” (“Compact”).⁶² The Agreement is a good-faith agreement between the Great Lakes states and provinces that places a ban on new or increased diversions, subject to three exceptions.⁶³ The Agreement specifically instructs the states and provinces to “adopt and implement Measures to prohibit New or Increased Diversions, . . . Measures to manage and regulate Exceptions [to diversions] . . . [and] Measures to manage and regulate [Great Lakes water] Withdrawals and Consumptive Uses.”⁶⁴ The Compact is a mirror image of the Agreement, and is legally binding on the Great Lakes states.⁶⁵ Both the Agreement and Compact will be discussed in detail below.

Some scholars have argued that Great Lakes states and provinces should not expect to monopolize Great Lakes fresh water by

58. *Id.*

59. Bielecki, *supra* note 18, at 183.

60. *Id.*

61. Great Lakes Agreement, *supra* note 9.

62. *Frequently Asked Questions*, GREAT LAKES–ST. LAWRENCE RIVER WATER RESOURCES REGIONAL BODY 1-2 (Apr. 2007), http://www.glsrregionalbody.org/Docs/Misc/Frequently_Asked_Questions_4-07.pdf.

63. Great Lakes Agreement, *supra* note 9, art. 201.

64. *Id.* art 200.

65. Kohler, *supra* note 8, at 29, 38.

implementing restrictions on diversions and consumptive uses.⁶⁶ However, the Great Lakes are linked to the economic and environmental health of the Canadian and American regions in which they are located and require the utmost protection to ensure their survival.⁶⁷ Although the states and provinces have taken several steps to ensure the fresh water of the Great Lakes is not diverted or consumed at an unsustainable rate, the current protections are still not enough. Due to the vast size and quantity of fresh water within the Great Lakes, they remain a prime target of diversion from areas experiencing drought and water quality issues.⁶⁸ A legally enforceable international agreement is necessary to protect the Great Lakes from future diversions. Without a legally enforceable agreement, the current good faith system will fail.

C. Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement

Rather than waiting for national governments to act to create protections for the Great Lakes, the governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, Wisconsin, and the premiers of Ontario and Quebec, signed the Agreement.⁶⁹ The governors and premiers recognized the gaps that still existed in the current system and chose to adopt another good-faith agreement in attempt to close the gaps.⁷⁰ This “non-binding but morally compelling” agreement requires the states and provinces to adopt and carry out measures that prohibit new or increased diversions of Great Lakes water.⁷¹ Under the Agreement, “new or increased diversions are prohibited, leaving to the individual parties how to address existing

66. *Dellapenna, supra* note 7, at 51–52 (“If precipitation changes from global climate disruption are even half as bad as current predictions, the approximately 4 percent of the global population that lives within the Great Lakes watershed cannot expect to continue to monopolize the Lakes’ waters (21 percent of the world’s available fresh water supply).”).

67. *See Frequently Asked Questions, supra* note 62, at 3.

68. Nathan C. Johnson, Comment: *Protecting Our Water Compacts: The Looming Threat of Unilateral Congressional Intervention*, 2010 WIS. L. REV. 875, 884 (2010).

69. Karkkainen, *supra* note 4, at 998, 1020 (2013).

70. *Id.* at 1020.

71. *Id.*

diversions.”⁷² The Agreement also calls for the states and provinces to adopt measures to regulate exceptions to diversions, withdrawals, and consumptive uses.⁷³

The Agreement defines a withdrawal as a means of taking “water from surface water or groundwater.”⁷⁴ A withdrawal includes a consumptive use, which is the “portion of [the] Water Withdrawn or withheld from the Basin that is lost or otherwise not returned to the Basin due to evaporation, [or] incorporation into Products or other processes.”⁷⁵ A diversion is “a transfer of Water from the Basin into another watershed, or from the watershed of one of the Great Lakes into that of another by means of transfer.”⁷⁶

Under the Agreement, there are three exceptions to the prohibition on diversions: the straddling community exception, intra-basin transfer exception, and the straddling counties exception.⁷⁷ The intra-basin transfer exception allows “the transfer of Water from the watershed of one . . . Lake[] [to] the watershed of another.”⁷⁸ Two other exceptions to the ban on diversions involve communities and counties that straddle the surface water basin divide.⁷⁹ A straddling community, which is an incorporated city or town whose borders lie at least partly within the basin, may apply for an exception to the ban on diversions.⁸⁰ A community within a straddling county, which is a city or town “located outside the Basin but wholly within a County [located] partly within the Basin,” may apply for an exception as well.⁸¹ The straddling county exception allows diversions from communities technically outside of the basin, but is subject to additional review criteria beyond what is required for a straddling community exception or intra-basin transfer.⁸²

A proposal for an exception to the prohibition on diversions must meet several criteria outlined in the exception standard in Article 201 of

72. Kohler, *supra* note 8, at 30.

73. Great Lakes Agreement, *supra* note 9, art. 200.

74. *Id.* art. 103.

75. *Id.*

76. *Id.*

77. *Id.* art. 201.

78. *Id.* art. 103.

79. *Id.* art. 201.

80. *Id.*

81. *Id.*

82. Kohler, *supra* note 8, at 32.

the Agreement.⁸³ First, the exception must not “be reasonably avoided through the efficient use and conservation of existing water supplies.”⁸⁴ Second, the quantity of water withdrawn must be limited to reasonable amounts.⁸⁵ Third, “All Water Withdrawn [must] be returned . . . to the Source Watershed less an allowance for Consumptive Use.”⁸⁶ Fourth, there must be no significant impacts to the quantity and quality of water.⁸⁷ Fifth, “Conservation Measures [must be used] to minimize Water Withdrawals or Consumptive Use.”⁸⁸ Sixth, the exception must comply with all laws.⁸⁹ The exception standard is a minimum standard, so parties are free to implement exception standards that are more restrictive than those provided for in the Agreement.⁹⁰

The Agreement calls for the development of a decision-making standard by all parties for management of new or increased withdrawals and consumptive uses.⁹¹ The Agreement provides five criteria that must be satisfied before a withdrawal or consumptive use is approved.⁹² The decision-making standard criteria are very similar to the exception standard criteria, and like the exception standard, serve as a minimum standard.⁹³ First, any “Water Withdrawn [must] be returned . . . to the Source . . . less an allowance for Consumptive Use.”⁹⁴ Second, there shall be no significant impacts on water quality or quantity.⁹⁵ Third, conservation measures must be implemented with respect to the way water is withdrawn.⁹⁶ Fourth, the withdrawal must be in compliance with other laws and treaties.⁹⁷ Lastly, an assessment of whether the proposed water use is reasonable must be made.⁹⁸

83. *Id.*

84. Great Lakes Agreement, *supra* note 9, art. 201.

85. *Id.*

86. *Id.*

87. *Id.*

88. *Id.*

89. *Id.*

90. *Id.* art. 202.

91. *Id.*

92. *Id.* art. 203.

93. *Id.* art. 202.

94. *Id.* art. 203.

95. *Id.*

96. *Id.*

97. *Id.*

98. *Id.*

The Agreement also creates a Regional Body, which is composed of the governor of each state and premier of each province.⁹⁹ The Regional Body is primarily responsible for ensuring formalized processes for approving or denying proposals for diversions, declaring whether the exception standard was met for proposals, and “[m]onitor[ing] and report[ing] on the implementation of [the] Agreement.”¹⁰⁰ The Regional Body will not approve a proposed diversion if it finds the proposal does not meet the exception standard.¹⁰¹ The Regional Body also must “keep a complete public record of documents” such as proposals for diversions, technical reviews, comments made by the public, and declarations of finding.¹⁰² The Agreement emphasizes the importance of public participation in proposals for withdrawals and diversions, so the Regional Body shall allow for public participation in its decisions “[t]o the greatest extent possible.”¹⁰³ The Agreement contains no specific enforcement provisions, “since it is non-binding and review by the Regional Body is more advisory in nature.”¹⁰⁴

D. The Great Lakes-St. Lawrence River Basin Water Resources Compact

The Agreement discussed above is implemented in the United States through The Great Lakes-St. Lawrence River Basin Water Resources Compact (“Compact”).¹⁰⁵ The Compact legally binds the eight Great Lakes states and is essentially a “mirror-image” of the Agreement.¹⁰⁶ Like the Agreement, the Compact includes requirements that each state create programs to manage and regulate all new or increased withdrawals, and also that each state create stringent restrictions on new or increased diversions outside the basin.¹⁰⁷ The Compact creates The Great Lakes-St. Lawrence River Basin Water Resources Council

99. *Id.* art. 400.

100. *Id.*

101. *See id.*

102. *Id.* art. 401.

103. *Id.*

104. Kohler, *supra* note 8, at 39.

105. *Id.* at 29.

106. Karkkainen, *supra* note 4, at 1017.

107. Great Lakes-St. Lawrence River Basin Water Resources Compact, art. 2, §§ 2.1, 2.3, Pub. L. No. 110-342, 122 Stat. 3739, 3744 (2008) [hereinafter Compact].

(“Council”), which consists of the Governors of each state that is a party to the Compact.¹⁰⁸ Unlike the Regional Body created by the non-binding Agreement, the Council created by the Compact has authority to initiate enforcement actions.¹⁰⁹ Any party, or the Council, may commence a civil enforcement action in the relevant state court against any person or party in violation of the Compact.¹¹⁰ Further, a person, state, or province, aggrieved by Council action is entitled to a hearing.¹¹¹ Although the Compact calls for collaboration and consideration of the provinces, it does not legally require it.¹¹² Essentially, the Compact gives the “Great Lakes states the [ability] to enforce . . . collective control over the Great Lakes basin.”¹¹³ This poses risks to Ontario and Quebec because they are unable to protect their interests in the Great Lakes through the Compact.¹¹⁴ Ontario and Quebec are not parties to it, so the states are not legally bound to consider their interests.¹¹⁵

Although the Agreement includes the provinces as parties, the Agreement is only in good faith and not legally binding.¹¹⁶ Further, “Quebec and Ontario represent more than 40% of the population living in the [Great Lakes] basin,” but the interests of the provinces are represented by only two of the ten decision makers.¹¹⁷ Under the Compact, Canadian interests are not legally represented at all.¹¹⁸ For Quebec and Ontario “to overcome these [obvious] weaknesses, great confidence in all stakeholders is required, but it is not impossible to achieve.”¹¹⁹ The confidence in all stakeholders might be shaken in the coming years considering the water quality and quantity issues occurring across the continent.¹²⁰ It is remarkable to some that protection of the Great Lakes has taken place without international treaties specifically

108. *Id.* art. II, §§ 2.1–2.

109. Kohler, *supra* note 8, at 38.

110. *Id.* at 39.

111. *Id.*

112. *See* Compact, *supra* note 107, art. 1, §1, 4.

113. Chaloux & Paquin, *supra* note 19, at 14.

114. *Id.* at 15.

115. *See id.*

116. Karkkainen, *supra* note 4, at 1020.

117. Chaloux & Paquin, *supra* note 19, at 15.

118. *Id.*

119. *Id.*

120. *See infra* Part II.

authorizing it.¹²¹ Considering the possible risks posed to Canadian Great Lakes provinces, the time to adopt a binding, international agreement should come sooner rather than later to protect the interests of *all* those living in the Great Lakes basin. An international agreement providing for penalties for non-compliance would ensure the continued protection of the Great Lakes. More stringent safeguards seem natural given the progression of Great Lakes protections put in place over the past 100 years.

PART II: CONSUMPTION RATES OF GREAT LAKES WATER, LOCAL AND INTERNATIONAL WATER CRISES, AND THEIR IMPACT ON THE LAKES

A. Great Lakes Commission Report and 2014 Findings

As discussed in Part I, the Agreement instructs the Great Lakes states and provinces to collect data concerning the use of fresh water from the basin.¹²² That data is then sent to the Great Lakes Commission, “which serves as the database repository.”¹²³ The Great Lakes St. Lawrence River Regional Water Use Database (“Database”) produces annual reports concerning withdrawals from the Great Lakes.¹²⁴ The “Database has been operational since 1988,” and was established as a response to a provision under the Great Lakes Charter.¹²⁵ Because of the non-binding nature of the Agreement, the reporting is not required by any party, but compliance in reporting has been improving since the inception of the Database.¹²⁶

In 2014, the Database reported total withdrawals from the Great Lakes-St. Lawrence river basin as “44,493 million gallons per day (“mgd”).”¹²⁷ This was a five percent increase from the 42,380 mgd withdrawn in 2013.¹²⁸ Consumptive uses in 2014 totaled 2,490 mgd, a seven percent increase from 2013.¹²⁹ “The public water supply . . . and

121. Karkkainen, *supra* note 4, at 1021.

122. Great Lakes Commission, *supra* note 42, at 4.

123. *Id.* at 3.

124. *Id.*

125. *Id.*

126. *Id.* at 3–4.

127. *Id.* at 6.

128. *Id.*

129. *Id.* at 9.

industrial [water supply] . . . were [main] contributors to the total consumptive use amount.”¹³⁰ Although the Database represents a very large step in the right direction towards accountability of parties to the Agreement, consumption of Great Lakes water is increasing, so the figures provided in the Database demonstrate the need for continued and potentially more stringent protections.

B. Global Water Security

In a 2012 Global Water Security report requested by the U.S. Department of State, the global demand for fresh water was predicted to increase between now and 2040.¹³¹ The current supply of fresh water is incapable of keeping up with these demands.¹³² The report attributed the increased demand for fresh water to climate change, clean water scarcity, and mismanagement of fresh water resources.¹³³ Specifically, the report predicted that over the next 10 years, countries with close ties to the United States located in North Africa, the Middle East, and South Asia would experience water scarcity and quality issues.¹³⁴ Water problems in these areas inhibit the ability to “produce food and generate energy,” which poses a problem for the United States as it hinders food markets and economic growth.¹³⁵ Considering the Great Lakes comprise 21% of the world’s fresh water, it is likely that these countries will also turn to the United States for exports of fresh water to meet demands in times of serious shortage.¹³⁶ Although the Agreement forbids exports and diversions of water, the pressure placed on the United States to export water may be greater than the moral obligation it has to the Canadian provinces under the Agreement. In the event areas request water from the Great Lakes, the Great Lakes states can approve an export of water under

130. *Id.*

131. OFFICE OF THE DIR. OF NAT’L INTELLIGENCE, GLOBAL WATER SECURITY, 1 (2012).

132. *Id.*

133. *Id.* at 1, 5.

134. *Id.* at 1.

135. *Id.*

136. *See id.* at 11.

the current regime, regardless of objections made by Quebec and Ontario.¹³⁷

C. The Effect Drought and Climate Change on North America

Over the next few decades, North America is expected to experience increased variability in precipitation and drought.¹³⁸ Although some variability in climate change is natural, the climate now seems to be changing beyond the natural variability.¹³⁹ Anticipated climate change over the next five decades is predicted to be a result of human activities, such as burning fossil fuels, which causes greenhouse gas emissions.¹⁴⁰ These increases in greenhouse gas emissions caused by human activity are expected to result in global warming.¹⁴¹ Average global temperatures of the ocean and air provide evidence that the earth “is warming [at rates] faster than at any time during the 20th century.”¹⁴² “Global mean surface temperatures [increased] 1.33 [degrees Fahrenheit] . . . between 1906 and 2005, [b]ut during the past fifty years, the rate of global warming has nearly doubled.”¹⁴³ The increases in temperature will cause sea levels to rise, and creates the possibility of extreme weather events such as droughts and floods at a more frequent and severe rate.¹⁴⁴ In the Great Lakes basin, water quality is affected by climate change through high water temperatures, which would decrease dissolved oxygen and

137. Although the agreement is “morally compelling,” the parties are not legally bound to abide by its terms. See Karkkainen, *supra* note 4, at 1020; see also Kohler, *supra* note 8, at 25.

138. See Noah D. Hall, *Interstate Water Compacts and Climate Change Adaptation*, 5 ENVTL. & ENERGY L. & POL’Y J. 237, 244 (2010); *Overview of Climate Change in Canada*, NAT. RES. CAN. <http://www.nrcan.gc.ca/environment/resources/publications/impacts-adaptation/reports/assessments/2008/ch2/10321> (last modified Nov. 10, 2015).

139. See Hall, *supra* note 138, at 244.

140. *Global Warming is Human Caused*, NAT’L WILDLIFE FED’N, <https://www.nwf.org/Wildlife/Threats-to-Wildlife/Global-Warming/Global-Warming-is-Human-Caused.aspx> (last visited Nov. 4, 2016).

141. *Id.*

142. Hall, *supra* note 138, at 243.

143. *Id.*

144. See *Climate Impacts on Water Resources*, EPA, <http://www3.epa.gov/climatechange/impacts/water.html> (last visited Mar. 15, 2016).

increase the presence of algae and bacteria, making water undrinkable.¹⁴⁵ The anticipated climate change will place more pressure on the Great Lakes states to provide diversions and exports of fresh water to areas across North America experiencing water quantity and quality issues.¹⁴⁶

The western and southwestern states in particular are facing water supply issues.¹⁴⁷ Over the next century, they are predicted to experience less precipitation and generally a warmer climate.¹⁴⁸ This warmer climate will reduce snowpack, which is the accumulation of snow in the North American Mountains.¹⁴⁹ Snowpack is a primary source of water for western states in the spring and summer; when the snowpack melts earlier than the spring and summer months when water needs are greatest, fresh water shortages will occur more frequently.¹⁵⁰ This reduced snowpack decreases the availability of fresh water for Colorado River basin states, including California.¹⁵¹

Unlike the Western states, the Northeast and Midwest states have been experiencing increased rainfall, likely caused by rising global temperature, because warmer air holds more moisture and results in heavier precipitation.¹⁵² Areas experiencing increased precipitation will experience more problems with water quality.¹⁵³ Heavy rainfall “can increase the amount of runoff into rivers and lakes, washing sediment, nutrients, pollutants, trash, animal waste, and other materials into water supplies, making them unusable, unsafe, or in need of water treatment.”¹⁵⁴

145. See *Global Warming and the Great Lakes*, NAT’L WILDLIFE FOUND., <https://www.nwf.org/wildlife/threats-to-wildlife/global-warming/effects-on-wildlife-and-habitat/great-lakes.aspx> (Last visited Mar. 20, 2017).

146. See Int’l Joint Comm’n, *Climate Change and Water Quality in the Great Lakes Basin*, at 104 (Aug. 2003), <http://www.ijc.org/files/publications/C210.pdf>.

147. See *Climate Impacts on Water Resources*, *supra* note 144.

148. Hall, *supra* note 138, at 244.

149. *Id.* at 245.

150. *Id.*

151. *Id.*

152. See *Global Warming and Floods*, NATIONAL WILDLIFE FOUNDATION, <https://www.nwf.org/Wildlife/Threats-to-Wildlife/Global-Warming/Global-Warming-is-Causing-Extreme-Weather/Floods.aspx> (last visited Mar. 20, 2017).

153. *Climate Impacts on Water Resources*, *supra* note 144.

154. *Id.*

Not only are rising temperatures linked to drought and increased precipitation, but they also result in increased consumption of water.¹⁵⁵ When “temperatures rise, people and animals need more water to maintain their health and thrive. Many important economic activities, like producing energy at power plants, raising livestock, and growing food crops, also require water.”¹⁵⁶ As temperatures rise, the amount of fresh water available will decrease, but at the same time the need for fresh water will increase.¹⁵⁷

The resulting negative impacts of climate change on water quantity and quality in North America will likely increase pressures to exploit the Great Lakes fresh water supply.¹⁵⁸ Although experts have suggested strategies to limit the cause of climate change by cutting back on sources of greenhouse gases, global warming and its effects on the Great Lakes basin cannot be changed overnight.¹⁵⁹ More stringent protections are needed to ensure water quality and scarcity issues do not cause excessive diversions and exports of Great Lakes water.

D. Waukesha Radium Contamination and Diversion Proposal

The first major test of the strength of the Agreement and Compact arose when the City of Waukesha, Wisconsin, recently applied for a diversion of Lake Michigan water in May 2010.¹⁶⁰ This application arose after a 2009 Wisconsin court judgment ordered the city to develop a

155. *Id.*

156. *Id.*

157. *Id.*

158. Keith Matheny, *Shipping Great Lakes Water? That’s California Dreaming*, DET. FREE PRESS (Apr. 19, 2015, 2:28 PM), <http://www.freep.com/story/news/local/2015/04/19/michigan-great-lakes-water/25965121/>.

159. See generally Comm’n for Env’tl. Cooperation, *Strategic Plan of the Commission for Environmental Cooperation 2015-2020*, (July 15, 2015), http://www.cec.org/sites/default/files/documents/strategic_plans/strategic_plan_2015_2020.pdf. The Commission for Environmental Cooperation is a collaborative partnership between Canada, Mexico, and the United States. *Id.* at 1. The commission created a strategic plan that prioritizes greenhouse gas emission mitigation actions, waste management programs, promotion of environmentally friendly products, and reducing toxicity and quantity of waste and increase recycling. *Id.* at 7–8.

160. Monica Davey, *Waukesha Plan for Lake Michigan Water Raises Worries*, N.Y. TIMES (Aug. 25, 2015), http://www.nytimes.com/2015/08/26/us/waukesha-plan-for-lake-michigan-water-raises-worries.html?_r=0.

permanent solution to radium contamination in the local water supply by 2018.¹⁶¹ Waukesha is “located 17 miles west of Lake Michigan, and [about] 1.5 miles” outside the lake’s natural basin.¹⁶² The city sought the straddling counties exception to the Agreement.¹⁶³ The city proposed to divert 10.1 million gallons per day from Lake Michigan via pipeline.¹⁶⁴ In May 2016, representatives from Ontario and Quebec gave conditional approval to the proposed diversion,¹⁶⁵ and on June 21, 2016, the Compact Council approved the diversion.¹⁶⁶

While Ontario and Quebec had the opportunity to voice their opinions regarding the proposed diversion and ultimately gave conditional approval of the diversion in May 2016,¹⁶⁷ the provinces were not a part of the final approval vote.¹⁶⁸ If the premiers of Ontario did not agree to the proposal, there still would have been potential for the diversion to occur, because the states are not legally bound to consider the province’s vote.¹⁶⁹ Proposals like Waukesha’s will likely not be the last with water being such a limited, valuable resource. “If national drought conditions and the economic and political pressures that follow worsen over time, some Midwestern water experts fear that the lakes’ existing protections might ultimately weaken.”¹⁷⁰ Opponents of the diversion argue this diversion sets a “dangerous precedent,” especially given the severe water

161. *Waukesha, Wisconsin Diversion Application*, WIS. DEP’T OF NAT. RES. (Jan. 2016), <http://dnr.wi.gov/topic/waterUse/documents/waukesha/WaukeshaDiversionOverview.pdf>.

162. *Frequently Asked Questions*, WAUKESHA WATER UTIL., <http://www.waukesha-water.com/faqH5.html> (last updated June 4, 2015).

163. See Davey, *supra* note 160.

164. *Id.*

165. Don Behm, *Great Lakes Mayors Oppose Waukesha Diversion*, MILWAUKEE J. SENTINEL (Aug. 22, 2016, 11:11 PM), <http://www.jsonline.com/story/news/local/waukesha/2016/08/22/great-lakes-mayors-oppose-waukesha-diversion/89101194/>.

166. *City of Waukesha Water Diversion Application*, WIS. DEP’T OF NAT. RES., <http://dnr.wi.gov/topic/wateruse/waukeshadiversionapp.html> (last revised June 21, 2016).

167. Behm, *supra* note 165.

168. Diana Mehta, *Canadians Invited to Comment on US City’s Request to Draw Great Lakes Water*, GLOBALNEWS (Mar. 6, 2016, 11:56 AM), <http://globalnews.ca/news/2560395/canadians-invited-to-comment-on-us-citys-request-to-draw-great-lakes-water/>.

169. Chaloux & Paquin, *supra* note 19, at 15.

170. See Davey, *supra* note 160.

shortages occurring in the western states.¹⁷¹ Other water crises within the basin in the United States pose a threat to the Canadian interests of the compact as well.

E. Flint Water Crisis

On January 5, 2016, Michigan governor Rick Snyder declared a state of emergency after water was sourced from the Flint River, resulting in lead contamination of drinking water in Flint, Michigan.¹⁷² The lead contamination arose in April 2014, when the city switched its water source from Lake Huron to the Flint River.¹⁷³ The switch was motivated by the city of Flint's financial woes, and was implemented after a state-appointed emergency manager recommended using Flint River water to cut costs.¹⁷⁴ The switch would have saved Flint an estimated "5 million [USD] while [the city] awaited the construction of a new pipeline to Lake Huron."¹⁷⁵ The plan received little evaluation for its technical feasibility, and Michigan government officials were slow to react to citizens' complaints about the contaminated water.¹⁷⁶ Shortly following the switch, residents complained of the strange taste, color, and smell emitting from the water.¹⁷⁷ In the summer of 2014, the city issued several boil water advisories after the switch was made to the Flint River.¹⁷⁸ Two research studies conducted in the fall of 2015 determined the new water source corroded aging water pipes, which leached lead into the water system.¹⁷⁹ The Michigan Department of Environmental Quality failed to

171. Mehta, *supra* note 168.

172. Paul Egan, *Snyder Declares Emergency as Feds Probe Flint Water*, DET. FREE PRESS (Jan. 15, 2016, 10:42 AM), <http://www.freep.com/story/news/local/michigan/2016/01/05/us-attorneys-office-investigating-lead-flint-water/78303960/>.

173. Codi Kozacek, *Flint's Contaminated Drinking Water is Third Water Threat for Michigan Governor*, CIRCLE OF BLUE (Jan. 11, 2016), <http://www.circleofblue.org/2016/great-lakes/flints-contaminated-drinking-water-is-third-water-threat-for-michigan-governor/>.

174. Egan, *supra* note 172.

175. Kozacek, *supra* note 173.

176. *Id.*

177. Ralph Ellis & Sara Ganim, *Flint Learns of Legionnaires' Disease Spike as Water Crisis Continues*, CNN (Jan. 13, 2016, 8:13 PM), <http://www.cnn.com/2016/01/13/health/flint-michigan-water-crisis/>.

178. Kozacek, *supra* note 173.

179. *Id.*

require corrosion control chemicals necessary to prevent corrosion in the drinking water, which caused lead to leach from pipes into local drinking water.¹⁸⁰ The lead in the water likely was the cause of the spikes in lead levels in the blood of Flint children.¹⁸¹ Flint Mayor Weaver stated the costs to reverse the damage in terms of infrastructure and improving residents' health, could be up to \$1.5 billion.¹⁸² As a temporary solution to the water crisis in Flint, members of the Michigan National guard were deployed to distribute bottles of water and water filters for residents.¹⁸³

The Flint water crisis has received national attention, which has sparked nationwide water quality concerns.¹⁸⁴ Sebring, Ohio, for example, discovered "unsafe levels of lead in the town's drinking water" in August 2015 because of lead pipes.¹⁸⁵ Residents of St. Joseph, Louisiana, reported that for the past ten years their drinking water has been brown or yellow and smelled of metal.¹⁸⁶ Given this increase in national concern over water quality, further pressure will likely be placed on the Great Lakes states to send water to areas in need.

If an increased diversion is needed to repair the major damage done to the Flint water system or other U.S. cities with contaminated drinking water, the voice of Canadian premiers may be overpowered by those of the state governors. The Compact does not require consent of the Canadian provinces, so governors may choose to disregard the opinions of the Canadian premiers in the wake of such severe water crises. Although the need is legitimate and the threat of lead poisoning is

180. Paul Egan, *State's Handling of Flint Water Samples Delayed Action*, DET. FREE PRESS (Dec. 23, 2016, 11:13 PM), <http://www.freep.com/story/news/politics/2015/12/23/states-handling-flint-water-samples-delayed-action/77367872/>.

181. Kozacek, *supra* note 173.

182. Paul Egan, *Flint Mayor: Cost of Lead Fix Could Hit \$1.5 Billion*, DET. FREE PRESS (Jan. 7, 2016, 8:40 AM), <http://www.freep.com/story/news/local/michigan/2016/01/07/governor-meet-morning-flint-mayor/78402190/>.

183. Ellis & Ganim, *supra* note 177. .

184. See e.g., Michael Wines & John Schwartz, *Unsafe Lead Levels in Tap Water Not Limited to Flint*, N.Y. TIMES (Feb. 8, 2016), http://www.nytimes.com/2016/02/09/us/regulatory-gaps-leave-unsafe-lead-levels-in-water-nationwide.html?_r=0.

185. *Id.*

186. Holly Yan & Tessa Carletta, *Would You Drink This? When Brown Tap Water is Deemed Legal and Safe*, CNN (Feb. 25, 2016, 1:44 PM), <http://www.cnn.com/2016/02/23/health/louisiana-st-joseph-dirty-water/index.html>.

serious, other solutions, such as replacing lead pipes, should be implemented rather than relying on the limited fresh water supply in the Great Lakes.

PART III: ARGUMENT AND SOLUTION

The Agreement as it stands today is not enough protection for the Great Lakes. Specifically, the Agreement does not provide enough protection for the interests of the Canadian provinces because they are not members to the Compact. A legally binding, international agreement should be put in place to protect the interests of *all* parties to the basin. Although the Great Lakes states have committed themselves morally to the Agreement, it may not be enough to withstand the pressures for diversions given the rise in water shortages and water quality issues in the United States.

As water quality and quantity issues are becoming more prevalent, Canada is becoming “less and less insulated from the geopolitical instability linked to extreme drought and floods.”¹⁸⁷ Canadians have been “lulled into a myth of abundance” of fresh water, and beliefs that the Great Lakes supply of fresh water will last forever will lead to more water crises.¹⁸⁸ Canadian water risk literacy appears to be low as well; although the World Economic Forum has listed water crises as the top five global risks, 81% of Canadians do not believe they are susceptible to droughts.¹⁸⁹ Rather than lying in wait for a crisis to occur, now is the time for Canadians to demand more protection of their interests in the Great Lakes from the federal government.¹⁹⁰ Although protections for the Great Lakes have progressed over the past 100 years, there is still no agreement that binds both the United States and Canada. A legally binding international agreement seems to be the most logical step towards protecting the Great Lakes from excessive diversions.

As it currently stands, the Compact requires only consultation or cooperation with the provinces, but it is not legally bound to follow their

187. Dustin Garrick, *What the California Drought Means for Canadians*, THE GLOBE AND MAIL (Apr. 7, 2015, 1:42 PM), <http://www.theglobeandmail.com/globe-debate/what-the-california-drought-means-for-canadians/article23820879/>.

188. *Id.*

189. *Id.*

190. *Id.*

input.¹⁹¹ With the increased water crises, this good faith obligation imposed by the Agreement will fail. A binding agreement is especially important considering the disparity in representation of interests of the parties to the Agreement because 40% of the basin population resides in Ontario and Quebec.¹⁹² Although a binding agreement alone will not completely compensate for this under representation, it still overcomes some of the obvious weaknesses associated with a good-faith agreement.

The Agreement imposes no legal consequences on the states for failing to consider the objections of the Great Lakes premiers.¹⁹³ An international agreement that imposes restrictions and penalties to parties who do not comply will ensure the continued protection of the Great Lakes. Although failing to comply with the Agreement would cause hardship to the relationship between the provinces and states and hinder trust that has been built for hundreds of years, more serious financial penalties would serve as even greater incentives to abide by the Agreement. With the current regime, the states can approve a proposed diversion to areas like Flint or Waukesha, without consent of the provinces.¹⁹⁴ Imposing legally binding obligations would ensure Canadian interests in the Great Lakes remain a priority. If the states approved a diversion without the consent of the provinces, a new regime should require penalties.

Now is the time for Canadians living within the Great Lakes basin to call upon the federal government to form a legally binding agreement. Although the Great Lakes protections have come a long way since the initial Boundary Waters Treaty, there is room for improvement. Current predictions support the finding that water scarcity issues are not going to end overnight. Waiting until water scarcity and quality issues worsen will only increase the pressure on the states to allow for new or increased diversions.

191. Compact, *supra* note 107, art. 1 §1.

192. Chaloux & Paquin, *supra* note 19, at 15.

193. See Great Lakes Agreement, *supra* note 9; see also Chaloux & Paquin, *supra* note 19, at 15.

194. See Great Lakes Agreement, *supra* note 9.

CONCLUSION

In sum, the Great Lakes-St. Lawrence River Basin Agreement represents a substantial step towards the commitment between the Great Lakes states and provinces to sustainable water use and protection of the Great Lakes. However, this good-faith agreement will likely fail in the midst of water shortages and water quality issues in the United States and in foreign countries with strong ties to the United States. These shortages will place increased pressure on state governments to allow exceptions to the ban on diversions deprived of the consent of Canadian premiers. Without an internationally binding agreement, there will be no sanctions on the Great Lakes states for taking part in such diversions sans Canadian consent. Although diverting water without the blessing of the Canadian premiers involved in the Compact would place serious harm on the relationship between the United States and Canada, the Great Lakes states may see no other option but to disregard the Agreement in the wake of a water crisis. The Great Lakes are an extraordinary natural resource that requires legally enforceable protections. A legally binding international agreement is needed to preserve the interests of Canadians in the Great Lakes basin.