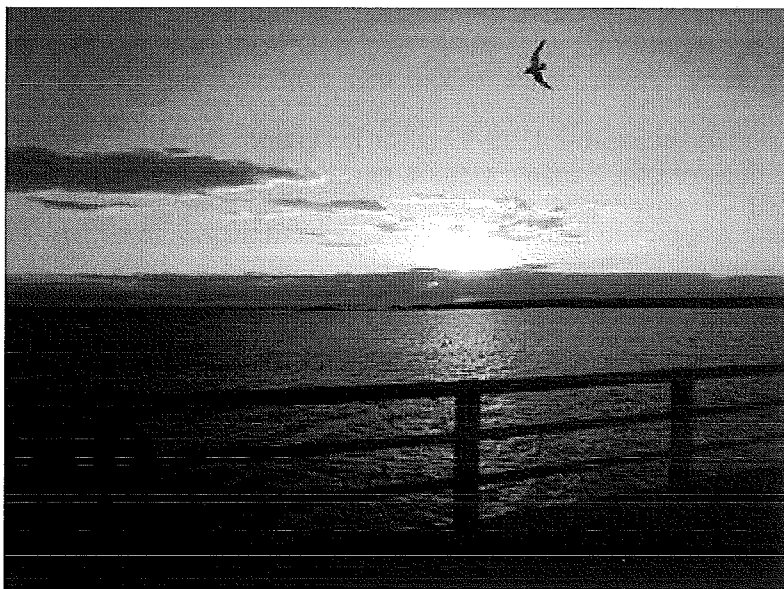


## Water pact will deplete Great Lakes, expert fears



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A pact designed to preserve the Great Lakes is in reality a "slippery slope" that threatens severe harm to the world's largest body of fresh water, a top U.S. environmental lawyer has warned Canadians.

"In effect, a precedent is being set, in that it allows for the commercialization of water. You are privatizing it," James Olson said yesterday of an agreement among eight Great Lakes states now before the U.S. Congress and linked to Ontario and Quebec through a side deal.

Among other concerns, Olson criticizes an exemption in the Great Lakes Compact allowing water to be removed by private industry as long as it's not "bulk diversion" - in other words, restricted to containers no more than 20 litres in Canada or 5.7 gallons in the U.S., with no limit on the number of containers a business, such as a bottler, can sell.

That means an important legal precedent has been set giving water a "product" exemption from the diversion ban on Great Lakes water at the heart of the deal. It is a product to be exploited for private gain, and not to be recognized as a public trust.

While Olson is worried about the gradual loss of water levels through the activities of, say, bottling companies, under current limitations, he predicts these quantitative restrictions will turn out to be mere formalities destined to be overturned in court challenges.

"The agreement has been reported to have a veneer of glory around it, but it's much less than that," Olson said in an interview from Traverse City, Mich. "But it can do great public harm, including to Canadians."

Olson, who has battled the Nestle Corp. in court over its Michigan bottling operations, is an ally of the Ottawa-based Council of Canadians in opposing the agreement. In 2003, he won

a court case against Nestle's Michigan production of its "Ice Mountain" brand using Great Lakes water, a decision that was partially overturned on appeal, according to Olson, granting the company 100 million gallons annually.

He also argues that water that comes from what should be the public domain should have a notice on the label to warn people they're paying to drink their own water.

The deal before Congress had its origins in a 1998-99 battle in Ontario over the proposed export of up to 600 million litres of Lake Superior water annually to Asia by the Nova Group.

After Mike Harris's government approved the sale, the public reacted angrily, forcing a rethink and denial of the permit.

That set in motion talks for a formal agreement to protect the Great Lakes and St. Lawrence water basins by preventing pipelines or other bulk exports.

In 2005, an agreement was reached among the Great Lakes states, Ontario and Quebec. Throughout the talks, the Ontario Liberal government was a proponent of a tough agreement.

In the end, the desire to reach a deal led to compromise, including the "product" exemption for water. Olson said the quantitative restrictions were "stuck in at the last minute," when environmentalists realized what had been done. "It was really quite tragic," he said.

A spokesperson for the Ontario environment ministry yesterday argued people should not be concerned about the Great Lakes, saying: "We're not talking about the transfer of water between water basins in bulk. Or if you were going to be transferring massive amounts of water from watershed to watershed, that would be serious.

"Clearly, in Ontario, we forbid the bulk transfer of water and we have done so since 1999," said the spokesperson, adding that, beginning next January, Ontario will charge \$3.71 per one million litres on the sale of the province's water.

He said he recognizes "many people have expressed concerns about water bottlers in Ontario, particularly multinationals taking the resource out of the watersheds" but stressed less than 1 per cent is taken by these global corporations.

In the United States, a separate Great Lakes water agreement, without inclusion of the Canadian provinces, must have congressional approval. A final hurdle was overcome earlier this month when the last state - Michigan - signed the agreement.

"This marks a significant step forward in safeguarding these waters on the U.S. side of the basin," Michael Wilson, Canadian ambassador to the U.S., said July 11. "It is our hope that the U.S. Congress will move quickly in providing its consent to the compact."

However, Meera Karunanathan, water resources analyst for the Council of Canadians, fears that the agreement further erodes the responsibility of the federal government to safeguard Canadian water.

"From a Canadian perspective, two agencies are mandated to protect our sovereignty over water," she said, referring to the International Boundary Waters Treaty Act of 1909 and the International Joint Commission, the binational referee that regulates disputes.

"Those agencies are being gradually eroded, along with Canadian sovereignty," she said.

