

EVERYTHING YOU NEED TO KNOW ABOUT THE GREAT LAKES COMPACT



What is the Great Lakes Compact?

The Compact is an agreement among the eight US Great Lakes states to prevent diversions and withdrawals that would harm the ecosystem created by the waters of the Great Lakes. It is rooted in history and a long tradition of managing the lakes cooperatively. Importantly, the Compact treats groundwater and surface water as one system subject to the same standard, and also includes the following statements about the Waters of the Great Lakes:

- They are valuable public resources held in trust by the States;
- They are interconnected and part of a single hydrologic system;
- They can concurrently serve multiple uses; and
- Future diversions and consumptive uses have the potential to significantly impact the environment, economy, and welfare of the region.

Why do we need the Compact?

The Great Lakes are one of America's national treasures and one of the natural wonders of the world. We have a responsibility to protect them. Without this compact, the Great Lakes are left vulnerable to commercial interests hooking up pipelines and sending tankers to deplete the Lakes. Congress should approve the compact to protect the nation's Great Lakes.

How does the Compact protect the Great Lakes?

The Compact is rooted in conservation – the primary motivation for the Compact was to protect the ecosystem that depends upon the water staying in the lakes. The focus is stewardship; we need to ensure the water stays in the basin for the ecosystem to thrive. That ecosystem creates the foundation upon which our economy and lifestyles depend. The Great Lakes are one of the wonders of the world and deserve the same protection as the Grand Canyon or the Everglades.

Does the Compact allow economic use of the Great Lakes?

The Compact, rooted in conservation, also includes some exceptions for vital economic and agricultural activities carried out across the basin. This allows domestic commerce and international trade activities to go on, even after the Compact takes effect. None of the exceptions invalidate the primary motivation of the Compact to conserve the waters of the Great Lakes.

The Product exception, for example, allows water to leave the region if it is used to make something. This means that water used in the process of manufacturing goods, or to make items such as baby food or cherry jelly, and shipped out of the basin is not considered a diversion. However, the Great Lakes states may still regulate withdrawals of water used to make a product so that the ecosystem is protected. Importantly, the Compact states that *"Water in its natural state such as in lakes, rivers, reservoirs, aquifers, or water basins is not a Product."*

Because the Compact does not prohibit products from leaving the basin, it will likely withstand trade challenges. Meanwhile, diversions through a pipeline, canal, aqueduct, ship, truck or rail tanker, etc. will be prohibited. Even if the restriction on diversions were challenged in a NAFTA or a WTO tribunal, the restriction would likely be upheld because it is intended to conserve the water in order to protect the ecosystem; it is not a restriction on international trade.



Doesn't the Compact contain a "loophole" for the bottled water industry?

The 5.7 gallon exemption in the Compact says this exactly:

"A proposal to Withdraw Water and to remove it from the Basin in any container greater than 5.7 gallons shall be treated under this Compact in the same manner as a Proposal for a Diversion. Each Party shall have the discretion, within its jurisdiction, to determine the treatment of Proposals to Withdraw Water and to remove it from the Basin in any container of 5.7 gallons or less."

So, when it comes to bottled water, it is up to the states to regulate how those operations will work in their jurisdiction. Nowhere in the Compact is bottled water called a product, but it is likely that trade tribunals will see it as such. So – if the Compact allows other product exceptions, how can it deny this industry the right to operate? It can't, but the solution left the door open for the states to regulate bottled water as they see fit. This 5.7 gallon exception attempted to address the debate about how to treat water in a bottle for sale, as is. It did not give the bottled water industry a free reign.

Does the Compact threaten our public trust protections?

There is nothing in the Compact that takes away our public trust protections in Michigan. The public trust doctrine protects the waters of the Great Lakes, the submerged lands beneath the Lakes, and the navigable waters in the state for

certain uses such as fishing, recreation, and navigation. The Compact does not change that.

Tip of the Mitt Watershed Council believes that groundwater should be added to the public trust protection and we will continue to work toward that, but the fact that it is not included right now does not mean the Compact should be defeated. In fact, the Compact recognizes the hydrological connection between surface and groundwater, which leads the way in setting up good arguments for including groundwater in the public trust, moving forward. It will take some time for the states to catch up, but they can and should.

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Section 1.3 of the Compact says: *"The legislative bodies of the respective parties hereby find and declare...1a: The Waters of the Basin are precious*

public natural resources shared and held in trust by the States." **Congress should pass the Compact, as is, and quickly.**

What needs to happen for the Compact to go into effect?

The Compact is now traveling a complicated journey, but once completed the result will be worth it. The process requires all eight state Governors to sign it, which was done in December 2005. The next step was completed in July 2008; all eight state legislatures passed it. The final step requires ratification by the US Congress. When that is accomplished, the Compact will become effective and binding on the states.



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