

Testimony of

Sen. Carl Levin

July 30, 2008

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Judiciary Committee

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Good afternoon, Chairman Feingold and Members of the Judiciary Committee. Thank you for holding today's hearing. I have enjoyed working with many of my fellow Great Lakes delegation members to protect the Great Lakes, including the Chairman of this Committee.

The Great Lakes are unique in the world and our region. The sheer size of the Great Lakes is impressed upon anyone who has stood on their shores, or who has seen the outline of the Michigan mitten, which the Great Lakes make one of the most distinctive shapes and the most recognizable shape on maps or satellite photographs of the earth. They provide habitat to countless species of fish and wildlife and provide a unique recreational experience. It is our solemn responsibility to protect the lakes for future generations.

Alexis de Tocqueville, the great chronicler of early America who explored the Great Lakes, said it best when he passed through Lake Huron. "This lake without sails, this shore which does not yet show any trace of the passage of man, this eternal forest which borders it; all that, I assure you, is not grand in poetry only; it's the most extraordinary spectacle that I have seen in my life."

Nearly two centuries later, the Great Lakes remain one of the most extraordinary spectacles in the world, and I am pleased that there is so much enthusiasm to protect Great Lakes water. In 2005, the Great Lakes Governors finalized the Great Lakes-St. Lawrence River Water Resources Compact, and all eight Great Lakes states have passed this interstate compact into law. I am pleased to join my colleagues in sponsoring a joint resolution to ratify this historic agreement to manage Great Lakes water.

The Compact will enhance the existing authority in law. The Compact will ban new diversions from the Basin with certain limited exceptions, and those exceptions would be regulated.

While the existing Water Resources Development Act law provides protection and authority to prevent diversions, the Great Lakes Compact will provide an effective means for Great Lakes states jointly to safeguard water for future generations. While it is clear that current law is sufficient to stop diversions, the Compact creates a better means to manage the water. Current law (WRDA) gives each Great Lakes governor veto power over certain types of diversions of surface water by any Great Lakes state. While this authority is clear, additional safeguards and standards will be helpful in the years ahead to give us a solid defense against WTO challenges and a solid basis to regulate groundwater.

The Compact states that "the protection of the integrity of the Great Lakes Ecosystem shall be the overarching principle for reviewing proposals." For the first time, water conservation goals will be developed to deal with any water diversion proposals.

The Compact would specifically address withdrawals and diversions of both ground and surface water. This would represent an improvement over existing law because there are differing opinions on whether the current law addresses ground water diversions.

Additionally, because the Compact would provide a scientific method for determining whether to allow a proposal to use water from the Great Lakes, it makes our efforts to protect the lakes more clearly compliant with international trade agreements and invulnerable to challenges under international trade agreements.

This interstate agreement has been in the making for close to decade, following the mistaken issuance of a permit for bulk water diversion by the Province of Ontario which was in violation of the non-binding Great Lakes Charter which had been agreed to by the 8 Great Lakes states and 2 Canadian provinces. In the 2000 WRDA, Congress directed the governors to negotiate a water management policy, and in 2005, the eight Great Lakes Governors and two Canadian Premiers came to an agreement.

I have heard that some people believe that there is a water bottle "loophole." The Compact prohibits water in a container larger than 5.7 gallons to be diverted outside the Great Lakes basin. Though the Compact would not prohibit water withdrawals in containers less than 5.7 gallons, individual states would retain their authority to regulate bottled water in any size container. Again current WRDA (i.e. the status quo) arguably has no constraints over groundwater diversions.

The Great Lakes Compact is beneficial and will provide greater protections for the Great Lakes than the status quo. As of today, 45 States and the District of Columbia currently belong to at least one interstate water compact and many States belong to more than one. Interstate compacts provide an effective means to manage shared water resources.

I appreciate the work of Governor Doyle who is here representing the Council of Great Lakes Governors, Governor Jennifer Granholm of Michigan, and the state legislators, and the hundreds of interested parties who helped get this agreement to where it is today. We need to take this important step to pass the Great Lakes Water Compact so as to make sure that we conserve this precious resource, ensuring sensible use now so that future generations can benefit from the Great Lakes as we do.

Thank you.