

Thoughts and hopes for a new Water Stewardship in the Great Lakes

In the past few months leading up to the Congressional approval of the US *Great Lakes St Lawrence River Basin Water Resources Compact* media headlines have focused on opposition to the Compact and its companion Agreement the *Great Lakes St. Lawrence River Basin Sustainable Water Resources Agreement* signed by the two Premiers and eight Governors. Concerns are that these Agreements are entrenching water commercialization particularly for bottlers and also undermining the public trust doctrine.

The Compact and the Agreement give us a whole range of valuable new tools to address large water withdrawals and diversions from the Great Lakes. These agreements have limited takings in the US Great Lakes for bottled water to water cooler sized containers for the first time. Most importantly each State has the ability to only to strengthen but not to weaken the Agreement. I think concerned groups would be better focused if they had improved information on how much water is and has been allocated daily and who water has been allocated to in each of their Great Lakes States. Tangible information flowing from the data requirements in these Agreements will eventually lead to identifying unsustainable use. Going into the discussions on these Agreements, Michigan knew less about water use within their boundaries than any other jurisdiction.

Concerned Groups could be focusing campaigns now to get stricter water conservation programs to enshrine reduction targets into permitting and water allocation systems. Water conservation can do more than any other action to assure the future resiliency of the ecosystem. New measures are needed for charges for permits to reflect greater risks from greater volumes extracted, and to require reporting on return flows. Others could follow the lead of Ontario and Minnesota and drop the thresholds for permitting and reporting to levels around 50,000 litres the size of a small to medium farm use. These measures would go much farther to discourage water bottlers and over allocation of water to them. In Ontario our permitting system has started to give us good information on who is given the greatest volumes and larger sectors of consumptive users but that information is still spotty in some States. Groups need to put their energy at this crucial time into improving their State and Provincial laws.

Some groups target and demonise the Compact and the Agreement as entrenching the commercialization of water ignoring that there are many other targets that have established bottled water in the marketplace. The Compact and the Agreement are the wrong place to lay the blame. They explicitly state that they cannot undo or override historical precedents and existing laws. Bottled water has long been regulated under the Food and Drug Act as a beverage. Bottled water was also listed as a beverage in schedules to the trade agreements in North America so as we all know it gets dicey having special

rules for water bottling that do not also apply to juice, beer and soda pops. None of us like this because of its implications for water in its natural state but the reality is that these other complications will need to be dealt with if water is no longer commercialised.

There is a real risk in down playing the importance of these Agreements. I fear all of this controversy is dangerous and leads others astray. It will be a mistake to limit arguments to principles and doctrines when opposing water taking applications, without focusing on the ecological and social important issues of unsustainable aquifer depletion. Arguments about commercialisation, and public trust while important will not be enough now. We have a real legal framework (yes with some loopholes that favour near neighbours) to require strong conservation, return flow, cumulative impacts, climate change considerations and sound scientific proof for the first time in legal challenges. We overall have a basin-wide ban on bulk water withdrawals which the US States maintained was impossible initially. These gains are huge and should be celebrated and quickly implemented.

The US Water Resources Development Act (WRDA) is weak because it is silent on groundwater leading many to speculate it does not cover groundwater (which some estimate make up 20% of the GL watershed). As we know there is going to be a flood of requests to move from ground to surface within the region, some justified because the groundwater is no longer potable but others opportunistic to secure unlimited water supplies to fuel future sprawl. There is wide concern that WRDA would not stand up to legal challenges involving ground water.

President Bush has now signed the Compact so the Agreements will now move to implementation. It will be crucial that the jurisdictions and the public use the Compacts and Agreements fully to establish their strong precedents initially and not allow exceptions that will weaken them. I am very concerned that these campaigns are avoiding that by not even picking up, sharpening and using the new tools we have been given.

If these Agreements become mired in controversy, we could well be continuing our history of unexamined use in the Great Lakes. There are still strong forces in the Great Lakes who want this Agreement to simply be protectionist the "Back off Suckers water diversion - the last straw" as those famous billboards said. Hiding behind that attitude are those who want the status quo to continue using as much water as we want in the region while denying others access. Many still do not think we have a problem of supply or a moral imperative to be good stewards and believe that unlimited use is the way to compete in a water short world. We are now at a very real watershed for the Great Lakes and St. Lawrence River what we do now will determine outcomes for generations to come.