

# Canada and the “Annex” Water Agreements

On first glance, the basin’s U.S. citizens stand to gain the most from the proposed “Annex” water reform agreements released in July by the Great Lakes – St. Lawrence River premiers and governors. After all, the eight states gain a binding, enforceable “compact” agreement for managing basin water, while the two provinces receive only a voluntary provincial-state handshake agreement.

In fact, Canadians should benefit substantially from both agreements.

Arguably the biggest concern for Canadians when it comes to basinwide water management is preventing diversions, something much more likely to be proposed in the United States than in Canada. **The eight-state “compact” agreement appears to strengthen the ability of the region to prevent diversions** (see separate fact sheet on diversions). Furthermore, the compact grants “any Person aggrieved” the right to challenge decisions made under the compact. This grants the provinces standing in state administrative and judicial proceedings. Finally, the compact will significantly strengthen state laws governing water withdrawals, which will better protect the basin ecosystem and Canada’s stake in that ecosystem.

**While voluntary, the provincial-state international agreement remains potentially very useful for Canadian and basin ecosystem protection.** The agreement both improves Canadian participation in basinwide decisions and promises improvement in provincial water takings laws. For the first time, the agreement sets up a formal approval procedure involving all ten jurisdictions for most diversion proposals and certain large takings proposals anywhere in the basin. This procedure is a great advance over its predecessor—a written “consultation” system between the states and provinces set up in 1985—which involved no extensive exchange of views and required no public involvement.

**In short, the provincial-state agreement sets up a precedent-setting basinwide water management system.** Under the new system the premiers and governors or their representatives would actually meet and cast votes on most diversions and the largest takings. The agreement describes this voting process as striving for consensus, an opportunity for Ontario and Québec to fully make any case they may have for better protecting the basin environment. While not mandatory, the resulting decision would carry considerably more weight than the current exchange of letters. For proposals originating in the states, the provincial-state vote is supposed to be accorded special consideration by the states when they deliberate separately under the enforceable arrangements set up in the eight-state compact agreement.

The two agreements—the eight state compact and the provincial-state international agreement—differ in their theoretical enforceability. However, if the voluntary 1985 provincial-state Great Lakes Charter is any guide, the provinces are better at keeping promises than the states. There is a good chance that the provincial-state agreement will end up, as promised, in Ontario and Québec law.

**Both the eight-state compact agreement and the provincial-state international agreement promise new, ecosystem-based standards for judging new or increased water takings proposals.** But the provincial-state agreement provides much more detail on how the standards would be implemented, making any resulting provincial laws likely to better protect the environment than their U.S. state counterparts.

Even so, the provinces will likely have less difficulty meeting their obligations under the new system. The provinces, particularly Ontario, have better water management systems than most of those found in the United States portion of the basin. Many states lack even basic water takings permitting and almost all lack significant watershed planning.

**The bottom line for Canadians:** The provincial-state international agreement would likely strengthen provincial water takings law and deepen joint provincial-state decision-making on diversions and the largest water takings. The eight-state compact agreement, despite having no formal Canadian involvement, would likely provide the basin, and therefore Canada, with better protection against U.S. diversions proposals and stronger U.S. laws for all water takings.

For more information on the proposed agreements, connect to [www.speakongreatlakes.org](http://www.speakongreatlakes.org).