

**Applying Earth Jurisprudence to Bring Harmony  
To the Great Lakes**

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The Great Lakes Region holds special meaning to me. It is the one place where I feel most at home, especially near Lake Michigan. People find comfort in different places and experiences. For me, it comes from the Great Lakes. Having grown up on Lake Michigan, I have been fortunate enough to build a strong relationship to her waters. As a child I would spend summer days in the cold water and enjoy every moment. Even on cloudy days, I would find myself along the beach listening to the water. The winter months were my favorite, when the snow and ice build up along the beach and rings of ice form near the shore. I spent hours watching the ice move on top of the waves in awe. The waters change with the seasons, bringing different experiences.

In the past few years, I have noticed a tragic change along the Milwaukee Lakefront. Signs have been posted with warnings about going into the water. An unpleasant odor is present in the summer heat. It is no longer what I remember from childhood. Sadness now comes over me when I see the empty beaches and I wonder how this happened. Obviously, Lake Michigan is calling out for help. Why are we not listening? At what point will people realize that we cannot survive without the natural world and we should embrace and respect Earth? The Great Lakes are only one part of Earth, but an important part nonetheless.

My relationship with Lake Michigan has led me to desire a better understanding of what is being done to restore these wonderful treasures of Earth and explore other possibilities. We have come a long way since the eighteenth century; however, we still have further to go. The Great Lakes are great, but they need to be healed, and part of that requires the community to shift its thinking from an economic focus to one of living in

harmony with Earth and all beings. These wonderful lakes give us so much, the least we can do is help them heal and stay healthy.

Exploring the principles of Earth jurisprudence has deepened my understanding of how important it is to embrace the connection I feel to the Great Lakes.

### **Introduction**

Five lakes make up the Great Lakes: Lake Superior, Lake Michigan, Lake Huron, Lake Erie, and Lake Ontario.<sup>1</sup> The Great Lakes Region consists of eight U.S. States: Minnesota, Wisconsin, Michigan, Illinois, Indiana, Ohio, Pennsylvania, and New York and two Canadian Provinces, Ontario and Quebec.<sup>2</sup> The Great Lakes are truly great; they contain about 21 percent of Earth's freshwater and about 84 percent of the United States freshwater supply.<sup>3</sup> The total area of the Great Lakes is over 94,000 square feet and the watershed area is about 295,000 square miles.<sup>4</sup> In addition to the vast amount of water they hold, the Great Lakes are home to delicate ecosystems and great beauty.

It is just in the last few decades that people have begun to see the importance of having healthy Great Lakes. The Great Lakes have been abused and exploited by people without much thought to the consequences. In the eighteenth and nineteenth centuries, the Great Lakes were used as garbage cans, because it was believed that water diluted any substance.<sup>5</sup> However, as human health began to suffer in the twentieth century, the

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<sup>1</sup> EPA, Great Lakes, Basic Information, <http://epa.gov/greatlakes/basicinfo.html> (last visited Apr. 23, 2008).

<sup>2</sup> Great Lakes Information Network, <http://www.great-lakes.net/lakes/#overview> (last visited Apr. 23, 2008).

<sup>3</sup> EPA, Great Lakes, Basic Information, <http://epa.gov/greatlakes/basicinfo.html> (last visited Apr. 23, 2008).

<sup>4</sup> GLIN, <http://www.great-lakes.net/lakes/ref/lakefact.html> (last visited Apr. 23, 2008).

<sup>5</sup> Water Pollution and the Great Lakes, <http://www.great-lakes.net/teach/pollution/water/water2.html> (last visited Apr. 23, 2008).

importance of clean water became apparent.<sup>6</sup> Today people are starting to learn from their mistakes and are working towards restoring the Great Lakes.

The Great Lakes are entering into a new phase, which has the potential to be restorative. By incorporating the principles of Earth Jurisprudence into the restoration of the Great Lakes, an unprecedented harmony will be reached between humans and the Great Lakes.

### **The Great Lakes**

The United States Environmental Protection Agency (EPA) includes the Great Lakes National Program Office, which works with Great Lakes stakeholders<sup>7</sup> “in an integrated, ecosystem approach to protect, maintain, and restore the chemical, biological, and physical integrity of the Great Lakes.”<sup>8</sup> The Great Lakes are managed at an international level, between the United States and Canada, based on the Boundary Waters Treaty of 1909 and the 1987 Great Lakes Water Quality Agreement.<sup>9</sup> In addition, Lake Superior, Lake Michigan, Lake Erie, and Lake Ontario all have Lakewide Management Plans (LaMP).<sup>10</sup> These are unique to each Great Lake and are plans of action to “assess, restore, protect and monitor the ecosystem health of a Great Lake.”<sup>11</sup> Lake Huron has a Binational Partnership 2008-2010 Action Plan.<sup>12</sup>

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<sup>6</sup> *Id.*

<sup>7</sup> Great Lake stakeholders are Federal, state, local governments; non-government organizations; industry; and private citizens. EPA, Great Lakes National Program Office, <http://epa.gov/greatlakes/about.html> (last visited Apr. 23, 2008).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* *Boundary Waters Treaty of 1909* is available at <http://www.ijc.org/rel/agree/water.html#text>. *1987 Great Lakes Water Quality Agreement* is available at <http://www.epa.gov/glnpo/glwqa/1978/index.html>.

<sup>10</sup> EPA, Lakewide Management Plans 2008, <http://epa.gov/greatlakes/lamp/index.html> (last visited Apr. 23, 2008).

<sup>11</sup> *Id.*

<sup>12</sup> EPA, Lake Huron Binational Partnership 2008-2010 Action Plan, [http://epa.gov/greatlakes/lamp/lh\\_2008/index.html](http://epa.gov/greatlakes/lamp/lh_2008/index.html) (last visited Apr. 23, 2008).

Lake Superior is by far the largest of the five Great Lakes. Lake Superior alone holds ten percent of the world's freshwater supply.<sup>13</sup> The volume of Lake Superior is 2,900 cubic miles with a surface area of 31,700 square miles.<sup>14</sup> Lake Superior is not only the largest of the Great Lakes but also the cleanest and coldest.<sup>15</sup> The average water temperature of Lake Superior is forty degrees Fahrenheit.<sup>16</sup> Because ninety percent of the basin is forested and there is a relatively small population around Lake Superior, it has not been exposed to as many pollutants as the other four Great Lakes.<sup>17</sup>

Lake Michigan is the second largest of the Great Lakes and the only one that is completely inside the United States.<sup>18</sup> The volume of Lake Michigan is 1,180 cubic miles with a surface area of 22,300 square miles.<sup>19</sup> Chicago is located on the Southwest shoreline of Lake Michigan. In 1900, Chicago had dumped such a large amount of waste into the Chicago River that engineers had to re-route the flow of the Chicago River away from Lake Michigan because of the health hazard the waste had created.<sup>20</sup>

Lake Huron has a volume of 850 cubic miles and a surface area of 23,000 square miles.<sup>21</sup> The shoreline of Lake Huron is surrounded by Ontario and Michigan. The

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<sup>13</sup> Minnesota Sea Grant, Superior Pursuit: Facts About the Greatest Great Lake, <http://www.seagrant.umn.edu/superior/facts> (last visited Apr. 23, 2008).

<sup>14</sup> GLIN, Lake Superior Facts and Figures, <http://www.great-lakes.net/lakes/#> (on map, click on Lake Superior; scroll to bottom of screen and click on GLIN, Lake Superior Facts and Figures)<http://www.great-lakes.net/lakes/ref/supfact.html> (last visited Apr. 23, 2008).

<sup>15</sup> Minnesota Sea Grant, Superior Pursuit: Facts About the Greatest Great Lake, <http://www.seagrant.umn.edu/superior/facts> (last visited Apr. 23, 2008).

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> Wisconsin Department of Natural Resources, Lake Michigan, <http://www.dnr.state.wi.us/org/water/greatlakes/LakeMichigan.html> (last visited Apr. 23, 2008).

<sup>19</sup> GLIN, Lake Michigan Facts and Figures, <http://www.great-lakes.net/lakes/#> (on map, click on Lake Michigan; scroll to bottom of screen and click on GLIN, Lake Michigan Facts and Figures) (last visited Apr. 23, 2008).

<sup>20</sup> Illinois Department of Natural Resources, Chicago Water Management in the 19th Century, <http://dnr.state.il.us/owr/chicago.htm> (last visited Apr. 23, 2008).

<sup>21</sup> GLIN, Lake Huron Facts and Figures, <http://www.great-lakes.net/lakes/#> (on map, click on Lake Huron; scroll to bottom of screen and click on GLIN, Lake Huron Facts and Figures) (last visited Apr. 23, 2008).

drainage basin area in Michigan is 16,100 square miles, while in Ontario it is 35,200 square miles.<sup>22</sup> Lake Huron was discovered by the French and named after the tribe of Native Americans who inhabited the area.<sup>23</sup> The Lake Huron Binational Partnership “focuses on pollution reduction activities in areas of obvious importance and directly pursues on-the-ground activities to protect areas of high-quality habitat within the Lake Huron basin.”<sup>24</sup>

Lake Erie is the smallest of the Great lakes with a volume of 116 cubic miles and a surface area of 9,910 square miles.<sup>25</sup> Lake Erie is the most polluted of the Great Lakes. In the 1960’s Lake Erie was pronounced dead because of the algae that covered the beaches and killed the native aquatic species.<sup>26</sup> Through restoration efforts, Lake Erie is now able to once again support native species.<sup>27</sup> The basin of Lake Erie is developed with agriculture, urban areas, industries and sewage treatment plants, all of which contribute to the high level of pollution into Lake Erie.<sup>28</sup>

Lake Ontario has a volume of 393 cubic miles and a surface area of 7,340 square miles.<sup>29</sup> Lake Ontario is the downstream Great Lake and about eighty percent of the water that flows through it comes from Lake Erie.<sup>30</sup> Because of its location, Lake

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<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> EPA, Lake Huron, <http://epa.gov/greatlakes/huron.html> (last visited Apr. 23, 2008).

<sup>25</sup> GLIN, Lake Erie Facts and Figures, <http://www.great-lakes.net/lakes/ref/eriefact.html> (last visited Apr. 23, 2008). <http://www.great-lakes.net/lakes/#> (on map, click on Lake Erie; scroll to bottom of screen and click on GLIN, Lake Erie Facts and Figures) (last visited Apr. 23, 2008).

<sup>26</sup> Teach GLIN, Water Pollution in the Great Lakes, <http://www.great-lakes.net/teach/pollution/water/water1.html> (click on “Lake Erie”)(last visited Apr. 23, 2008).

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> GLIN, Lake Ontario Facts and Figures, <http://www.great-lakes.net/lakes/#> (on map, click on Lake Ontario; scroll to bottom of screen and click on GLIN, Lake Ontario Facts and Figures) (last visited Apr. 23, 2008).

<sup>30</sup> EPA, Lake Ontario, <http://www.epa.gov/glnpo/ontario.html> (last visited Apr. 23, 2008)

Ontario feels the impact from all four of the other Great lakes.<sup>31</sup> The EPA has three Ecosystem Goals for Lake Ontario which come from the LaMP:

1. The lake Ontario Ecosystem should be maintained and as necessary restored or enhanced to support self-reproducing diverse biological communities.
2. The presence of contaminants shall not limit the uses of fish, wildlife, and waters of the Lake Ontario basin by humans and shall not cause adverse health effects in plants and animals.
3. We as a society shall recognize our capacity to cause great changes in the ecosystem and we shall conduct our activities with responsible stewardship for the lake Ontario basin.<sup>32</sup>

These goals illustrate a desire to care for Lake Ontario and acknowledge the responsibility of humans in the process.

Each of the five Great Lakes has unique gifts to offer which have been compromised by human behavior. There are currently both nonprofit and government organizations dedicated to restoring these great waters, but a fundamental change in human behavior is necessary for these efforts to be completely successful.<sup>33</sup> While a grassroots movement is vital in setting the standards of the restoration, government involvement at an international level is needed to ensure consistency.

### **The Great Lakes-St. Lawrence River Basin Water Resources Compact**

The Great Lakes-St. Lawrence River Basin Water Resources Compact (Compact) is an agreement between the eight Great Lake States<sup>34</sup> and two Canadian Provinces<sup>35</sup>,

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<sup>31</sup> *Id.*

<sup>32</sup> Lake Ontario Lakewide Management Plan Status, 3.2.1. Ecosystem Goals for Lake Ontario (Apr. 22, 2008) available at [http://www.epa.gov/glnpo/lamp/lo\\_2008/lo\\_2008.pdf](http://www.epa.gov/glnpo/lamp/lo_2008/lo_2008.pdf).

<sup>33</sup> Each of the Great Lake states have government funded programs as well as non-profit organizations dedicated to Great Lakes Restoration.

<sup>34</sup> The Great Lake State are Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin. (hereinafter Great Lake States)

<sup>35</sup> The Canadian Provinces of Ontario and Quebec.

which regulates the use of the Great Lakes.<sup>36</sup> The signing of the Compact and The Great Lakes-St. Lawrence River Basin Sustainable Water Resource Agreement<sup>37</sup> occurred on December 13, 2005 at the Council of Great Lakes Governors' Leadership Summit.<sup>38</sup> All eight Great Lake State Governors and the two Canadian Primers signed the agreements.<sup>39</sup> Wisconsin Governor Jim Doyle said, "The Great Lakes are an important resource for many varied interests – from the people who fish and canoe its waters to the manufacturers and farmers in the Provinces and the States—and their involvement and suggestions helped ensure that these agreements would be both strong and fair."<sup>40</sup>

Water is becoming an increasingly more valuable resource. The Great Lakes hold a significant amount of the world's freshwater supply. Because of this, the Great Lakes are vulnerable, and there is a risk of their being drained by supplying water to areas of the United States and other parts of the world that do not have adequate water supplies. The Compact creates protection for the Great Lakes.<sup>41</sup> Not only does the Compact implement strict guidelines for water use and diversions, it also requires restoration efforts to be implemented by the Great Lake States and Canadian Provinces.<sup>42</sup> The purposes of the Compact are:

- a. To act together to protect, conserve, restore, improve and effectively manage the Waters and Water Dependent Natural Resources of the Basin under appropriate arrangements for intergovernmental cooperation and

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<sup>36</sup> Great Lakes-St. Lawrence River Basin Water Resources Compact (Dec. 13, 2005), available at [http://www.cglg.org/projects/water/docs/12-13-05/Great\\_Lakes-St\\_Lawrence\\_River\\_Basin\\_Water\\_Resources\\_Compact.pdf](http://www.cglg.org/projects/water/docs/12-13-05/Great_Lakes-St_Lawrence_River_Basin_Water_Resources_Compact.pdf)

<sup>37</sup> Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement (Dec. 13, 2005), available at [http://www.cglg.org/projects/water/docs/12-13-05/Great\\_Lakes-St\\_Lawrence\\_River\\_Basin\\_Sustainable\\_Water\\_Resources\\_Agreement.pdf](http://www.cglg.org/projects/water/docs/12-13-05/Great_Lakes-St_Lawrence_River_Basin_Sustainable_Water_Resources_Agreement.pdf)

<sup>38</sup> Council of Great Lakes Governors, Projects, <http://www.cglg.org/projects/water/Agreement-Compact.asp> (last visited Apr. 23, 2008).

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> Great Lakes-St. Lawrence River Basin Water Resources Compact (Dec. 13, 2005).

<sup>42</sup> *Id.*

consultation because current lack of full scientific certainty should not be used as a reason for postponing measures to protect the Basin Ecosystem;

- b. To remove causes of present and future controversies;
- c. To provide for cooperative planning and action by the Parties with respect to such Water resources;
- d. To facilitate consistent approaches to Water management across the Basin while retaining State management authority over Water management decisions within the Basin;
- e. To facilitate the exchange of data, strengthen the scientific information base upon which decisions are made and engage in consultation on the potential effects of proposed Withdrawals and losses on the Waters and Water Dependent Natural Resources of the Basin;
- f. To prevent significant adverse impacts of Withdrawals and losses on the Basin's ecosystems and watersheds;
- g. To promote interstate and State-Provincial comity; and,
- h. To promote an Adaptive Management approach to the conservation and management of Basin Water resources, which recognizes, considers and provides adjustments for the uncertainties in, and evolution of, scientific knowledge concerning the Basin's Waters and Water Dependent Natural Resources..<sup>43</sup>

These purposes have a preventative focus. Rather than waiting until the problems in the Great Lakes spiral out of control, the Compact highlights the importance of preserving the Great Lakes now and for the future. Many times laws are reactive and address the harm that has already been done; this is a refreshing change. The Great Lakes are in need of restoration, and by having all of the states and provinces working together with a common goal; the restoration efforts will be more effective. “To promote interstate and State-Provincial comity”<sup>44</sup> is mandatory for success. Because the Great Lakes are all connected, all of the territories surrounding the Great Lakes need to work together. The restoration and preservation of the Great Lakes will not be successful if only a few states are working towards the goal.

The Compact has incorporated the precautionary principle. Three core elements are the basis of the precautionary principle: potential harm, scientific uncertainty, and

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<sup>43</sup> *Id.*, art I, § 1.3(2) (Dec. 13, 2005).

<sup>44</sup> *Id.*

precautionary action.<sup>45</sup> The drafters of the Compact are aware of the harm that would occur if the Great Lakes were allowed to be drained and not restored. There is a significant amount of restoration that needs to occur in the Great Lakes, which the Compact focuses on rather than just on preventing future harm to the Great Lakes.

Scientific uncertainty is clearly addressed in the first purpose of the Compact, “current lack of full scientific certainty should not be used as a reason for postponing measures to protect the Basin Ecosystem.”<sup>46</sup> Too often, the natural world is in need of protection and action. And though the need is known to the public, there is a lack of action because there is not a clear path to follow. This occurs based on a lack of scientific certainty as to what the best course of action should be in order to give the natural world the protection it requires. By addressing this factor, the Compact allows the Great Lakes to benefit from various methods of restoration without the burden of having to establish scientific certainty. Less harm will come from protecting the integrity of the Great Lakes than by doing nothing and watching these waters disappear even without scientific certainty.

The third element of the precautionary principle is precautionary action.<sup>47</sup> The Compact seeks to remove future controversies and prevent the adverse impacts of draining the Great Lakes.<sup>48</sup> In addition, the Compact provides for adapting the management of the Great Lakes to best fit the needs to the region based on changes in scientific findings and the changes to the lands and waters.<sup>49</sup> A precautionary approach is

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<sup>45</sup> Nancy Myers, *The Precautionary Principle Puts Values First*, BULLETIN OF SCIENCE, TECHNOLOGY & SOCIETY, Jun. 2002, at 210-19.

<sup>46</sup> Great Lakes-St. Lawrence River Basin Water Resources Compact, art I, § 1.3(2)(a) (Dec. 13, 2005).

<sup>47</sup> Nancy Myers, *The Precautionary Principle Puts Values First*.

<sup>48</sup> Great Lakes-St. Lawrence River Basin Water Resources Compact, art. I, § 1.3(1)(d) (Dec. 13, 2005).

<sup>49</sup> *Id.*

necessary for the Great Lakes, because once the water starts to be drained faster than it is replenished, the Great Lakes will be harmed to the extent of disrepair.

Even though the Governors of all of the Great Lake States signed the Compact, in order for the Compact to become law in each state it must first be approved by both the Senate and Congress and then signed by the Governor. The Compact is currently at different stages of implementation into law throughout the Great Lake States.<sup>50</sup>

Minnesota was the first state to ratify the Compact into law; this occurred on February 20, 2007.<sup>51</sup> Illinois quickly followed Minnesota's lead and ratified the Compact on August 17, 2007.<sup>52</sup> A year after Minnesota ratified the Compact, Indiana Governor Daniels signed the legislation.<sup>53</sup> The only other state ~ New York ~ to have ratified the Compact at this time did so on March 4, 2008.<sup>54</sup>

The remaining four Great Lake States have not been as efficient in ratifying the Compact. Michigan has not been able to get approval from the Senate<sup>55</sup> or Congress,<sup>56</sup> which is interesting considering the entire state of Michigan is within the Great Lake Basin.<sup>57</sup> In Ohio, the House passed HB 416<sup>58</sup> on February 19, 2008. As of April 23,

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<sup>50</sup> Council of Great Lakes Governors, Projects, <http://www.cglg.org/projects/water/Agreement-Compact.asp> (last visited Apr. 23, 2008).

<sup>51</sup> Press Release, Council of Great Lakes Governors, Minnesota Makes History as First State to Approve Landmark Great Lakes Compact (Feb. 20, 2007) (on file with author).

<sup>52</sup> Press Release, Council of Great Lakes Governors, Governor Blagojevich Signs Historic Great Lakes Protections (Aug. 17, 2007) (on file with author).

<sup>53</sup> Press Release, Council of Great Lakes Governors, Governor Daniels Signs Historic Great Lakes Protections (Feb. 20, 2008).

<sup>54</sup> Council of Great Lakes Governors, Projects, <http://www.cglg.org/projects/water/Agreement-Compact.asp> (last visited Apr. 23, 2008).

<sup>55</sup> The last action of Senate Bill 0212 (2007) was on Dec. 6, 2007 and it was referred to committee of the whole with substitute S-6. See Michigan Legislature, [http://www.legislature.mi.gov/\(S\(zbgd2j551tiqis55htpplveu\)\)/mileg.aspx?page=getObject&objectName=2007-SB-0212](http://www.legislature.mi.gov/(S(zbgd2j551tiqis55htpplveu))/mileg.aspx?page=getObject&objectName=2007-SB-0212) (last visited Apr. 23, 2008)

<sup>56</sup> The last action of House Bill 4343 (2007) was on Dec. 5, 2007 and it was deferred to a second reading. See Michigan Legislature, [http://www.legislature.mi.gov/\(S\(tefaqgvzo05r5r45o02qkp55\)\)/mileg.aspx?page=getObject&objectName=2007-HB-4343](http://www.legislature.mi.gov/(S(tefaqgvzo05r5r45o02qkp55))/mileg.aspx?page=getObject&objectName=2007-HB-4343) (last visited Apr. 23, 2008).

<sup>57</sup> See GLIN, Great Lakes, <http://www.great-lakes.net/lakes/> (last visited Apr. 23, 2008).

2008, this bill is still pending in the Senate. Pennsylvania is in a similar position as Ohio; the House passed HB 1705 on January 28, 2008 and is waiting on the Senate as of April 23, 2008.<sup>59</sup> The final state, Wisconsin, on March 6, 2008 2007 Senate Bill 523 passed<sup>60</sup>, however, on March 21, 2008 Assembly Bill 925 failed in the House.<sup>61</sup> In time, this one remaining state will hopefully realize the importance of the Compact and ratify it through legislation. More harm than good will come if they do not take action.

The Compact is a move in the positive direction toward restoring the Great Lakes. There are hints of Earth Jurisprudence principles throughout the Compact, though more elements of Earth Jurisprudence are waiting to be applied to the cause.

### **Principles for Jurisprudence Revision**

Earth Jurisprudence requires a shift in jurisprudence to look at all beings as having rights, not just human beings.<sup>62</sup> Thomas Berry writes, “It is important to be mindful of the earth, the planet out of which we are born and by which we are nourished, guided, healed ~ the planet, however, which we have abused to a considerable degree in these past two centuries of industrial exploitation.”<sup>63</sup> Rather than trying to live in harmony with Earth, humans have tried to dominated and control her. This has been done in various ways such as dumping waste in water, building dams, allowing deforestation, killing animals to the point of extinction, and more. In addition, rather than

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<sup>58</sup> Ohio General Assembly, [http://www.legislature.state.oh.us/bills.cfm?ID=127\\_HB\\_416](http://www.legislature.state.oh.us/bills.cfm?ID=127_HB_416) (last visited Apr. 23, 2008).

<sup>59</sup> Bill Information Regular Session 2007-2008, House Bill 1705, <http://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?year=2007&sind=0&body=H&type=B&BN=1705> (last visited Apr. 23, 2008).

<sup>60</sup> Wisconsin Legislature, History of Senate Bill 523, <http://www.legis.state.wi.us/2007/data/SB523hst.html> (last visited Apr. 23, 2008).

<sup>61</sup> Wisconsin Legislature, History of Assembly Bill 925, <http://www.legis.state.wi.us/2007/data/AB925hst.html> (last visited Mar. 26, 2008).

<sup>62</sup> THOMAS BERRY, EVENING THOUGHTS 149-50 (2006).

<sup>63</sup> THOMAS BERRY, THE DREAM OF THE EARTH 6 (1988).

establishing strong relationships with Earth, humans are disconnected and distanced from the natural world. More and more time is spent in urban areas and “enjoying” modern technologies. Both humans and the natural world are suffering because of this disconnect.

The Great Lakes are a clear example of the abuse Earth has endured because of industrial and economic goals. It was not until human health began to suffer that people began to realize the importance of having clean lakes ~ and even then, the focus was not on what the Great Lakes needed in order to be healthy, but rather just on how healthy humans needed them to be to protect humans. The Great Lakes are in the condition they are in today because of human activities. As such, it is the responsibilities of humans to find a way to repair these treasures, for their own sake. The integrity of the Great Lakes needs to be restored, and the principles of Earth jurisprudence are one way to help accomplish this need. Thomas Berry established Ten Principles for Jurisprudence

Revision:

1. Rights originate where existence originates. That which determines existence determines rights.
2. Since it has no further context of existence in the phenomenal order, the universe is self-referent in its being and self-normative in its activities. It is also the primary referent in the being and the activities of all derivative modes of being.
3. The universe is composed of subjects to be communed with, not primarily of objects to be used. As a subject, each component of the universe is capable of having rights.<sup>64</sup>
4. The natural world on the planet Earth gets its rights from the same source that humans get their rights: from the universe that brought them into being.<sup>65</sup>
5. Every component of the Earth community, both living and nonliving, has three rights: the right to be, the right to habitat or a place to be, and

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<sup>64</sup> For further discussion, *see infra* at 13-14.

<sup>65</sup> For further discussion, *see infra* at 14-15.

- the right to fulfill its role in the ever-renewing process of the Earth community.<sup>66</sup>
6. All rights in nonliving form are role-specific; rights in living form are species-specific. Rivers have river rights. Birds have bird rights. Insects have insect rights. Humans have human rights. Difference in rights is qualitative, not quantitative. The rights of an insect would be of no value to a tree or a fish.<sup>67</sup>
  7. Human rights do not cancel out the rights of other modes of being to exist in their natural state. Human property rights are not absolute. Property rights are simply a special relationship between a particular human “owner” and a particular piece of “property,” so that both might fulfill their roles in the great community of existence.
  8. Since species exist only in the form of individuals, rights refer to individuals, not simply in a general way to species.
  9. These rights as presented here are based on the intrinsic relations that the various components of Earth have to each other. The planet Earth is a single community bound together with interdependent relationships. No living being nourishes itself. Each component of the Earth community is immediately or mediately dependent on every other member of the community for the nourishment and assistance it needs for its own survival. This mutual nourishment, which includes the predator-prey relationship, is integral with the role that each component of the Earth has within the comprehensive community of existence.
  10. In a special manner, humans have not only a need for but also a right of access to the natural world to provide for the physical needs of humans and the wonder needed by human intelligence, the beauty needed by human imagination, and the intimacy needed by human emotions for personal fulfillment.<sup>68</sup>

Of these ten principles, five will be explored in relation to the Great Lakes Restoration.

“The universe is composed of subjects to be communed with, not primarily of objects to be used. As a subject, each component of the universe is capable of having rights.”<sup>69</sup> In *The Great Work* Thomas Berry writes, “Above all we discover that every being has its own spontaneities that arise from the depths of its own being. These spontaneities express the inner value of each being in such a manner that we must say of

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<sup>66</sup> For further discussion, *see infra* at 15-16.

<sup>67</sup> For further discussion, *see infra* at 17.

<sup>68</sup> THOMAS BERRY, EVENING THOUGHTS 149-50 (2006). For further discussion of this point 10, *see infra* at 17-20.

<sup>69</sup> THOMAS BERRY, EVENING THOUGHTS 149 (2006).

the universe that it is a communion of subjects, not a collection of objects.”<sup>70</sup> For centuries, the Great Lakes have been viewed as objects to be used by humans with little to no regard how those uses affected the Great Lakes. It is because of such ignorance on the part of humans that the Great Lakes are in need of restoration. The Great Lakes are home to delicate ecosystems that are simply trying to survive. Humans have not made it easy for these ecosystems; however, the natural world is resilient and, given the opportunity, can thrive. To commune with the Great Lakes rather than use them requires humans to change their relationship with the Great Lakes but not end it. The Great Lakes can still be used but with a heightened sense of respect and consideration. Humans need to learn how to take what they need and then move on, rather than taking as much as they want and leaving a trail of destruction. Moderation is key.

“The natural world on the planet Earth gets its rights from the same source that humans get their rights: from the universe that brought them into being.”<sup>71</sup> Humans are simply part of the greater whole that is Earth. The Great Lakes are also one part of the greater whole. Humans have rights, so why do the Great Lakes not? Currently rights are primarily viewed in terms of human rights. To look at the Great Lakes as subjects having rights requires a shift in perspective. Not only do the rights of all beings need to be acknowledged, but also a change in the concept of rights needs to occur. Currently humans have become so disconnected from the natural world that they have created purely self-serving rights without thought to the rights of the natural world. If humans would take a moment to reconnect to the natural world and fully embrace all of the wonders of Earth, the concept of all beings having rights specific to their kind would not

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<sup>70</sup> THOMAS BERRY, *THE GREAT WORK* 82 (1999).

<sup>71</sup> THOMAS BERRY, *EVENING THOUGHTS* 149 (2006).

be foreign, but rather obvious and natural. This disconnection has distorted humans into thinking they are the superior being, rather than part of a greater whole. Every being on Earth has something to offer and an intrinsic right to be engaged in that offering. The potential of the Great Lakes is unknown currently, because they have not been given an opportunity to be in a natural state in the last two-hundred years. Where their identity has not been completely lost, it has been tarnished.

The shift in perspective allows the Great Lakes their space as living beings entitled to integrity. The water levels of the Great Lakes rise and fall based on rain and snow. The waters of the Great Lakes are alive. In addition, they are home to living beings which have the right to thrive. The fish in the Great Lakes have the right to swim in water that is not polluted with mercury, just as humans have the right to breathe clean air. But more importantly, the Great Lakes have the right to sustain their ecosystems in the ways that they have developed throughout the eons, and not be subject to constant abuse and exploitation by humans.

“Every component of the Earth community, both living and nonliving, has three rights; the right to be, the right to habitat or a place to be, and the right to fulfill its role in the ever-renewing processes of the Earth community.”<sup>72</sup> These three rights are all interconnected while being different. The Great Lakes have the right to be Great Lakes. They have the right to be home to their delicate ecosystems. This requires clean water. Currently the Great Lakes’ right to be is being violated. Not only does the polluted runoff from agriculture and urban areas violate the right to be of the Great Lakes, but also the exposure to non-native beings harms the ecosystems. The shipping industry has exposed the Great Lakes to non-native plants and animals that have caused tremendous

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<sup>72</sup> *Id.* .

damage to the native ecosystems. Once these aggressive non-native beings take hold ~ an easy task with no natural predators ~ it is almost impossible to remove them. In order to be, the Great Lakes' native integrity needs to be respected by humans.

The Great Lakes have the right to a place to be. The glaciers formed these Great Lakes millions of years ago, long before humans inhabited Earth. The Great Lakes and their basins have the right to be together and to be where they were formed. Diverting the water in the basin areas, in order to have water supply for people in new communities, violates their right to a place to be. The Compact addresses this violation by creating strict guidelines about removing water from the region.<sup>73</sup> The water basin of the Great Lakes is where it is supposed to be and should not be subject to human alteration.

The Great Lakes have the “right to fulfill [their] role in the ever-renewing process of the Earth community.”<sup>74</sup> This includes being available for human use but not exploitation. It is when humans abuse the Great Lakes that this right is violated. The Great Lakes provide freshwater and aquatic life for humans to use in moderation. In addition, the Great Lakes are home to various plants and animal beings. They have a right to be able to provide their inhabitants with a healthy home and not one that is at the mercy of human behavior. Lake Superior is the healthiest of the Great Lakes because it has been able to enjoy a more natural environment around its shoreline.<sup>75</sup> This is an example how humans may better allow the Great Lakes to fulfill their role in the ever-renewing processes of the Earth community. Rather than looking at the best interest of the human, public awareness needs to bring the best interest of the Great Lakes into the

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<sup>73</sup> Great Lakes-St. Lawrence River Basin Water Resources Compact, art. IV (Dec. 13, 2005).

<sup>74</sup> *Id.* .

<sup>75</sup> Minnesota Sea Grant, Superior Pursuit: Facts About the Greatest Great Lake, <http://www.seagrant.umn.edu/superior/facts> (last visited Apr. 23, 2008).

forefront. Though not immediately apparent to all, restoring the Great Lakes will also improve the quality of human life, because all things are connected. When one area improves, it has a positive affect throughout. The Great Lakes reflect the quality of life of the humans who live in the region. Restoring the Great Lakes so that they are able to successfully fulfill their role will allow humans to do the same, thus creating a more harmonious existence for all beings.

“All rights in nonliving form are role-specific; rights in living form are species-specific and limited. Rivers have river rights. Birds have bird rights. Insects have insect rights. Humans have human rights. Difference in rights is qualitative, not quantitative. The rights of an insect would be of no value to a tree or a fish.”<sup>76</sup> Giving all subjects rights does not require the same rights for all. Each subject requires different rights in order to fulfill its purpose. The Great Lakes have Great Lakes rights. These rights include the right to clean water. The waters of the Great Lakes have the right to flow in a natural pattern without human manipulation.

“In a special manner, humans have not only a need for but also a right of access to the natural world to provide for the physical needs of humans and the wonder needed by human intelligence, the beauty needed by human imagination, and the intimacy needed by human emotions for personal fulfillment.”<sup>77</sup> Humans do not have to stop using the Great Lakes in order for them to be fully restored, they just have to modify their use of the waters. The Great Lakes hold an unlimited amount of beauty for humans to enjoy, whether it be a picturesque sunrise or a stormy day. The Great Lakes never look the same two days in a row. They are alive and they show it off well. Rather than just being

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<sup>76</sup> *Id.* at 149-50.

<sup>77</sup> *Id.* at 150.

aware that the Great Lakes exist, humans ~ especially those who live in the region ~ need to cultivate a relationship with the waters. There is a vast difference between being aware something is in existence and having a relationship with it. Unfortunately, there is an overwhelming pressure to focus on accumulating money and building net worth. As a result, humans have gotten lost in the concrete and steel. However, that is not what they need to feel complete and satisfied. Without nurturing from the natural world, humans have a distorted sense of priorities and are constantly searching for what is missing, even though what they are looking for is right outside. One of the largest cities in the United States, Chicago, has the benefit of being on Lake Michigan, although the humans who live there are so caught up in climbing the corporate ladder that they do not take the time to enjoy the splendor Lake Michigan has to offer.

The natural world provides physical needs of humans.<sup>78</sup> One of the most important needs of humans is water. The Great Lakes hold eight-four percent of the United States' freshwater.<sup>79</sup> The Great Lakes hold important resources, however, they are not spread out across the country but rather huddled together as one interrelated whole . Therefore, it is not their role to provide water to the entire country, but rather for those humans and other beings who live within the region.

The natural world provides the “wonder needed by human intelligence.”<sup>80</sup> This is embodied by the Great Lakes. The ecosystems challenge scientist to explore how they work and what they entail. The vastness of the waters provide for the navigation needs of

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<sup>78</sup> *Id.* at 150.

<sup>79</sup> EPA, Great Lakes, Basic Information, <http://epa.gov/greatlakes/basicinfo.html> (last visited Apr. 23, 2008).

<sup>80</sup> THOMAS BERRY, EVENING THOUGHTS 150 (2006).

ships. How the waters affect the weather challenges the meteorologist. The Great Lakes provide countless opportunities for human exploration and discovery.

The natural world provides “the beauty needed by human imagination.”<sup>81</sup> Beauty is subjective, and the Great Lakes provide an array of elements which combine and individuate in beauty ~ everything from the waters themselves to the birds which feed on the fish, to the plant life that is found along the beaches, to the rocks that have been washed ashore and formed in a way that only the movement of the water can create. Artists seek the Great Lakes out for inspiration on their next creation. Children explore the cold waters of the Great Lakes with an innocence that is lost in adults. The Great Lakes are just one part of the natural world that provides beauty, but they are beautiful.

The natural world provides “the intimacy needed by human emotions for personal fulfillment.”<sup>82</sup> Money and belongings do not make a person fulfilled. In the end, even the most wealthy still need a connection to the natural world. Humans spend their lives trying to “fit in,” but they are putting their energy in the wrong place. Rather than focusing on trying to get others to like them, if they developed a relationship with the natural world, they would find the peace and confidence they are desperately searching for. No matter where a human life starts, all humans share Earth with all the other beings, and it is that connection to Earth which will bring humans together.

The Great Lakes provide a comfort for those who are open to it that cannot be found anywhere else. Even though all things are part of the greater whole, it is the individual characteristics which reach out to humans. It is about taking the time to discover what this world has to offer and where that connection can be found for each

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<sup>81</sup> *Id.*.

<sup>82</sup> *Id.* .

human. The Great Lakes have a way of reaching out to those who are open and providing unconditional support. Earth would not be Earth without these treasures. It is now the responsibility of humans to restore these Great Lakes to their natural state.

### **Conclusion**

In conclusion, it is a hopeful time for the Great Lakes. These waters have been around for billions of years and deserve the respect of the ages. It would be a great loss to lose them now or in the near future. The principles of Earth Jurisprudence provide a framework for restoring, not only the Great Lakes but the Earth, to a more harmonious state of being. Rather than punishing and regulating, Earth Jurisprudence focuses on finding balance and harmony with all things. It is one Earth in which all things share. When one part is out of balance, the balance of all things is compromised. The Great Lakes are just one example of the imbalance of Earth.

Thomas Berry writes, “[t]he universe is a communion and a community. We ourselves are that communion become conscious of itself. As regards the planet Earth, any adequate description must include its every aspect. The simpler elements are not known fully until their integration into more comprehensive modes of being is recognized.”<sup>83</sup> The Great Lakes have their own beings but are at the same time part of all beings on Earth. There is no way to completely sever this connection, but it is possible for people to not feel the connection because of a lack of awareness. No single being can live in isolation. There is a need for community in all beings, because all beings are part of a greater whole. Rather than looking for fulfillment in places that only promote separation from the Earth community, humans need to seek out the natural world and

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<sup>83</sup> THOMAS BERRY, THE DREAM OF THE EARTH 91 (1988).

learn the priceless lessons that are just waiting to be taught. The lessons of the Great Lakes are waiting for humans to be ready to learn them. By looking at the Great Lakes as beings and striving to improve their conditions, humans will obtain a benefit that is worth far more than any dollar amount.