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FLOW Founder Pens Seminal Article on Public Trust in the Great Lakes

“All Aboard” in Vermont Journal of Environmental Law

TRAVERSE CITY, MI – FLOW Founder and veteran water attorney Jim Olson has recently published his latest article about the public trust in the Great Lakes. The seminal article “All Aboard: Navigating the Course for Universal Adoption of the Public Trust” appears in the Spring 2014 edition of the *Vermont Journal of Environmental Law* (Volume 15, Issue 2, p. 135-191). It is also available online at: http://vjel.vermontlaw.edu/files/2014/01/Issue-2_Olson.pdf.

Olson, (LL.M., University of Michigan, 1977; J.D., Detroit College of Law (Michigan State University College of Law) 1971) is a Traverse City-based water and public interest lawyer with expertise in public trust backed by 40 years of litigation. Named the 2010 Champion of Justice by the State Bar of Michigan for his work defending water in the public interest as the plaintiff attorney in the Nestlé bottling plant lawsuit in Mecosta County, Olson is the Great Lakes Basin’s preeminent legal expert on matters of protecting and conserving water as a common and public resource.

“All Aboard” not only thoroughly reviews and confirms the viability of the public trust doctrine in each of the Great Lakes Basin states and two Canadian provinces, but also inspires and charts the way for leaders and citizens to affirm and apply the public trust to stem the systemic threats to the Great Lakes. The article proposes an integrative commons framework for understanding and finding solutions to problems affecting water at every phase of its hydrologic cycle. The article underscores the rich potential for invoking the public trust as an overarching policy tactic to effectively address and solve the systemic and large-scale threats to the health of the Great Lakes, including climate change, algal blooms, pollution, exports, and privatization.

What’s more, the public trust is a versatile legal lens to analyze policy problems because, as Olson outlines, “[t]he public trust doctrine—or at least its principles—offer a legal construct to integrate our understanding of energy production, food systems, and climate change with the hydrologic cycle” (139). This “nexus” of overlapping concerns—water, energy, food, and climate change—is a new set of issues in the 21st Century that 20th Century laws and policies aren’t equipped to address. Olson’s decades of experience invoking the public trust as a legal means for closing that gap is reflected in the depth and breadth of the “All Aboard” article.

“Each Great Lakes Basin state and province has, in their own way, a clear legal obligation under the public trust to ensure that the Lakes’ water is protected,” says Olson. “It is both feasible and necessary for governments across the board to recognize that the public trust is their tool for solving the problems that elude existing policies that are still letting things like algal blooms and extreme water

levels slip through the cracks,” he says.

“All Aboard” published in the *Vermont Journal of Environmental Law* (Volume 15, Issue 2, p. 135-191) in February 2014. The *Vermont Journal of Environmental Law* was founded in 1996 with support from [Vermont Law School’s Environmental Law Center](#). The *Journal* is a student-run organization that publishes articles on topics in the environmental field quarterly.

Through Olson’s nonprofit Great Lakes policy and education center FLOW, Olson will help to bridge the ideas of “All Aboard” and share them beyond the academic and law sphere. “It’s important that both decision-makers and citizens are informed about the utility of the public trust and its empowering potential as a legal solution,” says Olson. Olson blogs about the public trust regularly on FLOW’s website at: <http://flowforwater.org/soundings-blog/>.

FLOW’s mission is to advance public trust solutions to save the Great Lakes, and its policy and education programs focus on empowering decision-makers and citizens with legal strategies and tools for addressing water, energy, food, and climate change issues affecting the Great Lakes. Olson’s “All Aboard” article supplements FLOW’s growing niche in the public trust and commons policy field.

In 2011, Olson and fellow public interest advocate, National Chairperson of the Council of Canadians Maude Barlow, presented findings from their joint [report on the public trust doctrine](#) in an exclusive meeting with the binational regulating agency for the Great Lakes, the International Joint Commission (IJC). As journalist Keith Schneider wrote in his [2012 article about Olson and Barlow’s landmark presentation](#): “It was the first time that a framework for managing the Great Lakes as a commons had been presented at such a high government level in both nations.”

The public trust doctrine holds that certain natural resources like navigable waters are preserved in perpetuity for public use and enjoyment. Applying a banking analogy, the state serves as a trustee to maintain the trust or common resources for the benefit of current and future generations who are the beneficiaries. Just as private trustees are judicially accountable to their beneficiaries, so too are state trustees in managing public trust properties.

Because many citizens are not aware that the public trust doctrine is part of their bundle of rights in our democracy, many state actors ignore or violate these principles. It is the aim of the “All Aboard” article, as a supplement to FLOW’s programming, to help inform citizens and decision-makers of their rights and responsibilities to enjoy and preserve Great Lakes water for the benefit of the greater good.

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FLOW is the Great Lakes Basin’s only public trust policy and education 501(c)(3) nonprofit organization. Our mission is to advance public trust solutions to save the Great Lakes.