

## Not serious about our water

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OTTAWA — Canadians like to think we are world leaders when it comes to protecting our water resources, but in reality we are dilettantes who talk a good game but rarely follow through.

Prime Minister Stephen Harper's promise in the Throne Speech to ban bulk water exports fits this picture. To find a group of politicians who are actually doing something you have to look south to the United States and the Council of Great Lakes Governors.

The promise in the Throne Speech bears all the hallmarks of political posturing. Here in its entirety is what was said: "To ensure protection of our vital resources, our government will bring in legislation to ban all bulk water transfers or exports from Canadian freshwater basins."

No further details were given. And there were none to be found. Jim Prentice, who as Environment Minister is responsible for water policy, refused to say anything more this week. Officials at his department were similarly mum.

After a day of saying nothing, they decided that the Department of Foreign Affairs and International Trade was calling the shots. Officials there didn't seem to know anything more than their colleagues at Environment Canada.

### Confusion reigns in Canada

The confusion over who is in charge is a clear indication that this is not exactly a high-priority item for the government, even though the bare-bones promise is being endlessly repeated by a succession of ministers as they take their turn in the debate on the Speech from the Throne. Repeat something often enough and chances are someone will believe you.

Has the policy even been thought through? The previous minister of the environment, John Baird, insisted last year that there were already adequate measures in place to protect Canadian water from export. Groups like the Council of Canadians, whose chairwoman, Maude Barlow, has recently been appointed a special adviser on water to the UN, disagree, saying tougher legislation is needed.

The Conservative party platform from the last election straddles these two positions. It said that a Conservative government would "reaffirm" the ban on bulk water transfers, which seems to back Mr. Baird's position.

But the document then goes on to say that a Conservative government would work with the provinces and territories "to strengthen the current ban and ensure a clear legislative prohibition on bulk water removals or export from Canadian drainage basins."

So, perhaps not the ironclad protection that Mr. Baird implied.

### Provinces do their own thing

Whenever the federal government talks about working with the provinces, you can be sure that any result is years away. Jurisdiction over water in Canada is shared among the provinces and the federal government. For the last 20 years, Ottawa has been largely content to sit back and let the provinces take the lead. Water was not considered important enough to fight a messy jurisdictional battle.

The result, as you can imagine, is a hodgepodge of provincial laws and a national water policy that is now more than 20 years old and sadly in need of updating. The Mulroney government introduced the last national water policy and made a weak attempt to legislate a ban on water exports. A bill was introduced, but died on the order paper when an election was called.

Then came the Canada-U.S. Free Trade Agreement, followed by the North American free-trade agreement. Water was not explicitly excluded from NAFTA. Instead, a side statement by the leaders of Canada, the U.S. and Mexico said that water in its natural state was not considered a tradable good.

However, after NAFTA was signed, the federal government received legal advice that it could no longer ban water exports without breaking the treaty.

### Canadians behind export attempts

Over the years, there have been numerous attempts by Canadian companies to make money by exporting water in bulk. Some have been crackpot schemes, such as running a trench through the Rocky Mountains or damming James Bay and piping freshwater south.

A 1998 plan by an Ontario company to fill tankers on Lake Superior and send them to Asia forced governments on both sides of the Canada-U.S. border to sit up and take notice.

What happened next is indicative of the difference between the Canadian and U.S. approach.

In Canada, we had our usual fractured reaction. The federal government amended national legislation that implemented the 1909 Boundary Waters Treaty with the U.S. so that it prohibited bulk transfers out of selected basins.

This treaty only covers waters through which the border runs (essentially the Great Lakes, except for Lake Michigan), but not waters that run across the

border or water anywhere else in Canada. The amendments were couched in environmental terms, making them more difficult to challenge as trade measures.

The provinces did their own thing. All but New Brunswick have legislation explicitly banning water exports. However, because some provincial laws use trade terms instead of environmental language, they may not stand up to a trade challenge.

### The U.S. shows the way

In the U.S., governors of the eight states that border the Great Lakes were sufficiently alarmed by the attempt by the Ontario company to export water that they launched negotiations among themselves and with the premiers of Ontario and Quebec to produce much stronger protection.

Although Canadians like to think all Americans have designs on our water, the governors of the water-rich northern states are just as reluctant as the average Canadian to see their water piped to the parched U.S. southwest.

The result was the Great Lakes-St. Lawrence River Water Resources Compact, a legally binding agreement to prohibit new bulk water diversions or exports. It has been ratified by all eight state legislatures, debated in Congress and signed into law by the U.S. president. It takes effect Dec. 8.

Meanwhile in Canada, Ontario and Quebec signed voluntary non-binding agreements with the eight U.S. governors to honour the terms of the compact. Ontario has passed legislation to that effect. Quebec's bill died when the provincial election was called.

At the national level we have a promise, lacking any apparent political backing, to pass legislation at some point. Will Mr. Harper stand up to the provinces and insist that a national approach is urgently needed? Will he even have time to do anything before his minority government falls?

The answer to both is: Not likely. This is political posturing, dressed up to look like environmental stewardship.

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