

Extracted from the Canadian Centre for Policy Alternatives' Alternative Federal Budget 2010, *Getting the Job Done Right*.

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## Water

### Introduction

Canada needs a national water policy based on the principles of water as a human right and a public trust. Our water resources must be protected from contamination, privatization, and unsustainable commercial use, and distributed equitably and sustainably. With little knowledge of groundwater resources, lack of information about the impacts of climate change on water or the amount of water effectively being traded through water-intensive exports, the extent of the water crisis is yet to be fully understood. Yet the federal government is forging ahead with plans to weaken environmental protections, claiming they impede economic development.

In 2009, trade agreements and deregulation posed new threats to Canada's water supplies. The federal government is currently pursuing a trade agreement with the European Union that will give large multinational corporations such as Suez and Veolia access to \$100 to \$200 billion in subnational procurement.

The government is also exploiting a loophole in the Metal Mining Effluent Regulation of Fisheries Act, Schedule 2, to allow metal mining

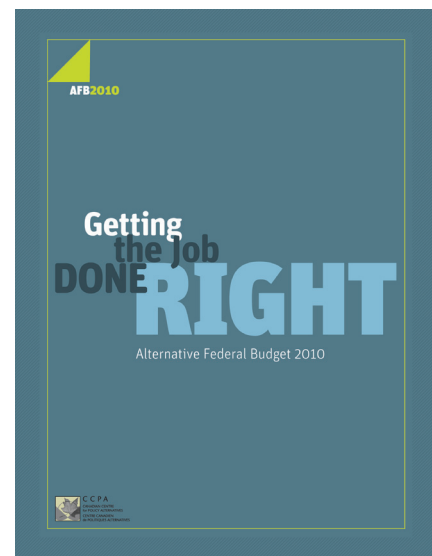
companies to dump toxins directly into natural bodies of fresh water, a practice that would destroy them.

Canada must adopt a comprehensive plan to protect water resources in the public interest, and ensure their equitable distribution.

The Alternative Federal Budget will take measures to ensure that all Canadians have access to safe, clean drinking water and sanitation. To that end, a national water infrastructure fund will be established for municipalities and First Nations communities; national enforceable drinking water standards will be set; water infrastructure will be placed under public control; and our water will be protected from pollution and shortages.

### Water justice

The AFB recognizes water as a human right by enshrining it in domestic law, by recognizing the existing rights of Aboriginal communities to water, and by supporting the recognition of water in international law. Water must be recognized as a human right at every level of government. This will ensure that all people living in Canada, without discrimination, are legally



entitled to safe, clean drinking water and water for sanitation, and that inequalities in access are corrected immediately. According to the World Health Organization,<sup>1</sup> the recognition of water as a human right will require governments to:

- respect or refrain from interfering directly or indirectly with the enjoyment of the right to water;
- protect or prevent third parties such as corporations from interfering in any way with the enjoyment of the right to water; and
- fulfill or adopt the necessary measures to achieve the full realization of the right to water.

In particular, the recognition of water as a human right will provide communities lacking access to clean drinking water with a legal tool to exercise this right. It will also provide legal recourse from the destruction of source water by industrial activities.

According to the UN, one billion people around the world lack access to safe drinking water and basic sanitation. The recognition of water as a human right in international law allows for the means and mechanisms available in the United Nations human rights system to be used to monitor the progress of states in ensuring the right to water and to hold governments accountable.<sup>2</sup>

The Canadian government has consistently opposed the recognition of water as a human right at key UN meetings. The AFB supports the recognition of water as a human right in international law.

### **First Nations' water rights**

Indigenous communities in Canada have been affected disproportionately by the water crisis. Despite repeated pledges for access to clean drinking water, their water is still often contaminated. Last October, Health Canada reported 124

drinking water advisories in First Nations communities.<sup>3</sup> Industrial water pollution is rampant in these communities. High cancer rates associated with exposure to tar sands production, for example, have been reported among the First Nations and Métis communities in Fort Chipewyan, Alberta. Because industrial expansion is either directly on land to which Indigenous communities lay claim or upstream from where they live, it is crucial that the authority of Indigenous governments be respected.

The recognition of First Nations water rights requires the federal government to:

- respect Aboriginal self-determination;
- recognize and respect the authority of Indigenous governments;
- honour the right of Indigenous peoples to participate in decision-making regarding water;
- establish drinking water standards for First Nations reserves in collaboration with First Nations communities; and
- acknowledge and incorporate Indigenous knowledge in federal decision-making with respect to water.

### **Water a public trust**

The recognition of surface and ground water as a public trust will require the government to protect it for the public's reasonable use, and to make private use subservient to the public interest. Permission to extract groundwater under the public trust doctrine, for example, might be granted based on the ability to show public benefit for any proposed extraction.<sup>4</sup> It may also lead to the creation of a hierarchy of use requiring that water use be allocated for ecosystems and basic human needs given priority.

## Water security

### **National public water infrastructure fund**

Decades of cuts in infrastructure funding, coupled with the downloading of several programs and services to municipal governments, have resulted in a “municipal infrastructure deficit,” conservatively estimated at \$123 billion by the Federation of Canadian Municipalities. Water and wastewater needs alone are estimated at \$31 billion.

The AFB allocates \$3.7 billion in 2010–11 to be invested in a National Public Water Fund. Some of the general municipal infrastructure spending is to be spent on rebuilding water infrastructure. Municipal water transfers would then reach their yearly target of \$3.1 billion in 2011–12 in order to pay down the infrastructure deficit in 10 years. This funding will be apportioned from the Green Community Transformation Fund found in the Cities and Communities chapter.

The AFB devotes this spending exclusively to publicly owned and operated water infrastructure instead of through the failed P3 model. An additional \$150 million over three years will be devoted to water operator training and certification in the public sector, along with water conservation programs.

### **National enforceable drinking water standards**

Canada does not have legally enforceable drinking water standards.<sup>5</sup> In February 2008, the Canadian Medical Association Journal reported 1,766 boil-water advisories in Canadian municipalities, not including First Nations communities.<sup>6</sup> Several communities have endured drinking water advisories for years, and 90 Canadians die from water-borne disease every year.

The AFB will establish national enforceable drinking water standards that include a training program for workers and dedicated money for upgrading of infrastructure.

### **Strategy to prevent water pollution**

Although regulating water pollution falls largely under provincial jurisdiction, the federal government is responsible for protecting fish-bearing waters through the Fisheries Act and controlling toxic substances under the Canadian Environmental Protection Act.

The AFB therefore introduces a plan to curb water pollution that includes:

- standards for industry and agribusiness;
- a slowdown of tar sands production;
- removal of Schedule 2 from the Fisheries Act;
- national enforceable standards for sewage treatment; and
- research and funding for environmentally friendly sewage treatment methods.

Every level of government must commit to creating and enforcing strict laws against industrial dumping, the use of non-essential pesticides on public and private lands, and the discharge of toxins into waterways or landfills.

### **Transition to a tar sands-free future**

The tar sands projects release four billion litres of contaminated water into Alberta’s groundwater and natural ecosystems every year. Toxins connected to tar sands production have been found as far downstream as the Athabasca delta, one of the largest freshwater deltas in the world. A transition away from the tar sands is clearly imperative.

### **Removal of Schedule 2 from Fisheries Act**

Lakes that would normally be protected as fish habitat by the Fisheries Act are now being redefined as “tailing impoundment areas” in a 2002 “schedule” added to the Metal Mining Effluent Regulations of the Act. Once added to Schedule 2, healthy freshwater lakes lose all protection and become dump-sites for mining waste. Canada

is the only industrialized country to allow this practice. It must stop.

### **National enforceable standards for sewage treatment**

Canada has no national standards for municipal sewage treatment and wastewater effluent quality.<sup>7</sup> As a result, 200 billion liters of raw sewage are flushed into our waterways every year. While the federal government has announced a new plan for sewage treatment standards, it is crucial that municipalities receive the necessary financial support from higher levels of government to sanitize their sewage before discharging it into our waterways. Any regulation without investments in building the capacity of municipalities is a strategy to force municipalities to resort to private sector support.

### **Strategy to address water shortages**

A third of our communities rely on groundwater as a source of drinking water, yet Canada still has not mapped its groundwater supplies or ascertained how long they will last.<sup>8</sup> The AFB therefore commits to implementing a thorough groundwater protection plan that will include:

- the application of the public trust doctrine to groundwater;
- prohibiting the extraction of groundwater in quantities that exceed its recharge rate; and
- a “local-sources-first” strategy that gives first rights to local people, farmers, and communities.

Canada is a net exporter of bottled water.<sup>9</sup> Despite growing shortages in municipal water supplies, over a quarter of bottled water consumed in Canada is actually public water repackaged. The AFB will introduce stricter regulation of the bottled water industry that will require bottled water corporations to identify their sources on

labels and work with provinces to demand restrictions on water-taking permits.

### **A climate change plan**

The Conservative government has failed to plan for the impact of climate change on Canadian watersheds and water infrastructure. Provinces and municipalities will require assistance from the federal government in planning for the water shortages, floods, and droughts that may arise.

The AFB plan for climate change includes:

- research and information on impacts of climate change on watersheds and infrastructure;
- renewal and funding of the Flood Damage Reduction Program; and
- drought and flood planning and support for Indigenous communities

### **Alternative sources of power**

The energy sector is the single largest user of water. Canada diverts more water for hydroelectricity than any other country in the world, and tremendous amounts of water are consumed for tar sands development. A comprehensive water strategy must include plans to develop publicly-owned alternative sources of power that put less strain on water resources.

### **Water democracy**

Corporations in Canada benefit from an environmental policy gap, while trade agreements protect foreign investors against future policies that would restrict or prohibit their activities.

The AFB therefore institutes the following mechanisms to enable governments to protect watersheds:

**Ban bulk water exports:** The need for such a ban is pressing, given the pressure to export water to serve drought-prone areas in the United States. In the last two years, we have seen detailed proposals from right-wing think-tanks in both

the United States and Canada to export water from Manitoba and Quebec. These projects would be tremendously costly, require vast amounts of energy, and pose serious threats to watersheds.

**Exclude water from NAFTA and all future trade agreements:** Under NAFTA, water is defined as an investment and a service. This protects the right of foreign investors to consume vast and unsustainable amounts of water to extract oil from the tar sands, to bottle ancient glacier water and groundwater, and to dump their waste into lakes. If a corporation is granted permission to export water anywhere in Canada, it becomes a tradeable good under NAFTA, and other provinces will have to grant similar access to corporations seeking water export rights. Only a clear exclusion of water from NAFTA and other trade agreements will avert this threat.

**Amend the Great Lakes Compact and recognize the IJC:** The International Joint Commission (IJC) is responsible for resolving conflicts over boundary waters between Canada and the U.S. But it is increasingly being circumvented and its authority undermined. The Great Lakes Annex, initially created to prevent diversions from the Great Lakes/St. Lawrence River Basin, was negotiated by Ontario, Quebec, and the eight Great Lakes states without involvement by the Canadian federal government. The Great Lakes Compact, which makes the provisions of the Annex enforceable in the U.S., was signed into law by President George Bush in December 2008. These agreements empower another body with the responsibility for dispute resolution, thus making the IJC irrelevant and restricting Canada's ability to responsibly protect the future of the Great Lakes. The agreement also allows diversions through a loophole that gives bottled water corporations the right to withdraw unlimited amounts of water in containers of 20 litres or less. Key groups in Canada and the United States are now calling for an amendment of the Compact to incorporate the public trust doctrine and remove of the bottled water exception.

The AFB will open negotiations with the U.S. to incorporate the public trust doctrine into the Great Lakes Compact Agreement and eliminate the bottled water loophole. It will also refer all boundary water matters to the IJC.

#### Water knowledge

Canada has the resources to be a leader in environmental research, but Canadian scientists are concerned that research in this area has declined significantly due to a lack of political will and severe funding cuts. To address the numerous information gaps in water quality and quantity, the 2010 Alternative Federal Budget injects funds into:

- the monitoring of water quantity and quality;
- the Global Environmental Monitoring Program; and
- a comprehensive study of water contamination in the tar sands.

The responsibility for monitoring water quantity and quality is shared between the federal and provincial governments, but inadequate funding and lack of coordination have led to gaps and inconsistencies in information.

The AFB will improve water monitoring through:

- the development of an overarching water quality and water quantity monitoring frameworks to assist provinces and communities;
- an increase in monitoring stations; and
- training for staff in water monitoring.

The AFB will allocate \$325 million over three years towards funding these initiatives.

**Tar sands contamination:** This contamination has caused health and environmental problems for the residents of Fort Chipewyan and other communities on the Athabasca watershed.

A thorough investigation of the tar sands' health and environmental impacts is clearly imperative.

The AFB will commit \$30 million to an in-depth study of the water effects of tar sands development.

### Conclusion

The myth of water abundance and the lack of legislation have created a climate in Canada where corporations have been able to exploit water resources with very little restriction compared to other industrialized countries. Canada, through better research and science, must improve its understanding of the looming freshwater crisis, set concrete targets to protect water, and guarantee access to clean drinking water in all communities, while ensuring that water services remain in public hands. The foregoing measures set forth by the AFB will begin the too-long-delayed process of developing a policy that makes the conservation and protection of our water resources a public trust and access to clean drinking water a public right.

### Notes

- 1 2003. WHO. Right to Water. Health and human rights publications, series no. 3.
- 2 WHO: [http://www.who.int/water\\_sanitation\\_health/rightwater/en/](http://www.who.int/water_sanitation_health/rightwater/en/)
- 3 Health Canada: [http://www.hc-sc.gc.ca/fniah-spnia/promotion/public-publique/water-eau-eng.php#how\\_many](http://www.hc-sc.gc.ca/fniah-spnia/promotion/public-publique/water-eau-eng.php#how_many)
- 4 January, 2007. Legislative Study Committee of Groundwater Regulation and Funding. Legislative Council State House, Vermont.
- 5 Barlow, Maude. Blue Covenant: The Global Water Crisis and the Coming Battle for the Right to Water. (Toronto: McLelland and Stewart, 2007) 184
- 6 2008. Canadian Medical Association Journal. Investigative Report: 1,766 boil-water advisories now in place across Canada: <http://www.cmaj.ca/cgi/content/full/178/10/1261>
- 7 Barlow, Maude. Blue Covenant: The Global Water Crisis and the Coming Battle for the Right to Water. (Toronto: McLelland and Stewart, 2007) 184
- 8 Barlow, Maude Barlow, Maude. Blue Covenant: The Global Water Crisis and the Coming Battle for the Right to Water. (Toronto: McLelland and Stewart, 2007) p.179
- 9 Barlow, Maude. Blue Covenant: The Global Water Crisis and the Coming Battle for the Right to Water. (Toronto: McLelland and Stewart, 2007)