

A Plan Full of Holes

On February 10, 1999, Foreign Affairs Minister Lloyd Axworthy and then-Environment Minister Christine Stewart announced a plan to prevent the bulk export of Canadian fresh water abroad. In response to mounting calls from the Council of Canadians and others to deal with the threat, the ministers called on the provinces to join with the federal government in a moratorium on bulk water exports until a detailed national accord could be reached. Axworthy went further, however, allaying fears that Canada might lose control of its fresh water by referring reporters to a 1993 exchange of letters between Canada and the United States that purports to exempt fresh water from the free trade deals.

Immediately after the ministers' press conference, Council Chair Maude Barlow and Executive Director Peter Bleyer responded to the federal plan. The following is an edited version of Maude Barlow's statement.

I want to respond to the announcement that's just been made. First of all, I will say something positive and that is that the Council is pleased the government knows it has to do something. The bad part is that they're trying to do with water what they're trying to do with magazines, which is, having given away rights to our water under the North American Free Trade Agreement (and, I would add, under the World Trade Organization), they are trying to walk around the legislation to find a compromise. It's not going to work.

First of all, the moratorium is not binding on the provinces. If even one province decides not to adhere to it, the whole plan will be placed in jeopardy. [Quebec has, in fact, declared that it will not take part.] Secondly, it is not trade-proof. If any one province allows the export of water for commercial purposes, all of the provincial bans across the country will be put at risk because only federal legislation exempting us from NAFTA can pertain in this issue. That has been very clearly spelled out by many, many trade lawyers and by Mr. Axworthy himself when he was a member of the Opposition.

Mr. Axworthy talked about an exchange of letters that took place in 1993. I should have brought with me the statement he issued in 1988, on the eve of the federal election, declaring that no exchange of letters between governments could protect water - that only opening up the deal (at that time, the Canada-U.S. Free Trade Agreement - the model for NAFTA) would suffice. The benign notion that water can lie in the ground protected in one province while it is being traded commercially in another is wrong. But I'll go further than that and say that I don't think we have yet understood the implications of the fact that a Canadian company - Global Water Corp. of British Columbia - has already signed a contract to export 18 billion gallons of Alaskan water every year to China. Global Water Corp. plans to begin exporting within a year.

This means that one of the three NAFTA countries has already opened up the commercial export and trade of water; therefore NAFTA has been triggered in terms of the water resources of all three countries. This sets in motion the Investor-State rights in NAFTA - the provision under which Ethyl Corp. of the United States sued Canada last summer for banning the toxic gasoline additive MMT, and forced us to reverse the ban. It's the provision under which Sun Belt Water, Inc. of California is suing the Government of Canada.

By not having the guts to deal with water as a trade issue, and dealing with it only through environmental legislation, like the earlier MMT ban, the federal government is leaving us open to further challenges by foreign companies seeking lost profits.

What is the federal government planning to do on Sun Belt? Are they making a secret agreement? Are there other Sun Belts that we don't know about?

We are distinctly unhappy with the way the government has chosen to respond to this issue. They are attempting to come at it by hoping the Americans won't notice what we are doing. I have news for them: U.S. Trade Representative Charlene Barshefsky is on the warpath and I highly doubt that she will be accommodating. What she is certain to say is: "Go ahead and pass all the environmental legislation you want. As long as this trade legislation remains in place, our rights to Canadian water are secure."