

**Bill C-383: Outline of Remarks to the
Standing Committee on Foreign Affairs and International Development of the
House of Commons**

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For: **Canadian Water Issues Council (CWIC)**

Good Morning. I would like to begin by echoing Adèle Hurley's thanks to the Committee for the opportunity to be with you this morning.

My remarks today reflect the longstanding interest that CWIC has had in the issue of interbasin removals of water generally, and water exports more specifically. Over four years ago, CWIC developed a Model Act for Preserving Canada's Waters with a view to stimulating debate on this very subject. While the Model Act suggested one approach to foreclosing the possibility of water exports, we recognized there were other possible legislative avenues for addressing the issue. Regardless of the particular approach, however, there is no doubt as to how Canadians feel about the ultimate goal: Canadians have been consistent and firm in their insistence that they do not want to see their endowment of water resources put at risk through interbasin transfers in the name of chasing at-best-doubtful economic gains.

In this respect, while Bill C-383, the proposed *Transboundary Waters Protection Act*, takes a somewhat different approach than that suggested in CWIC's Model Act, it nevertheless achieves the same goals that CWIC has been pursuing for several years.

As Members of this Committee are no doubt aware, the issue of water exports has arisen on a number of occasions in the past five decades, beginning with a

series of proposed mega-projects in the 1960s, and then emerging again, first in the context of trade negotiations in the 1980s and 1990s, and subsequently as the result of an abortive private sector proposal to export water by tanker from the Great Lakes. This proposal led to an amendment to the *International Boundary Waters Treaty Act* [R.S.C., 1985, c. I-17] in 2002 and the issuing of a joint reference by Canada and the United States to the International Joint Commission (the Water Uses Reference).

In the 2002 amendments, the government addressed only **one** potential threat to Canada's waters by prohibiting (with certain limited exceptions) the interbasin removal of **boundary waters** – that is, those waters through which the international boundary runs (for example, the Great Lakes). It did not address the potential threat of water export by means of **transboundary** waters – that is, principally, rivers that cross the boundary. While this approach had the constitutional advantage of fitting squarely within the Empire treaties clause of the Constitution, it had the obvious disadvantage of leaving unprotected important potential pathways for water export. It was in light of this legislative deficiency that CWIC took on the task of encouraging debate on a more ambitious approach towards limiting the possibility of water exports.

Subsequent to its Throne Speech undertakings of 2008 and 2009, the federal government did indeed bring forward its own legislative initiative on water exports in the spring of 2010 with the introduction by the Minister of Foreign Affairs of Bill C-26, which eventually died on the Order Paper with the calling of a federal election. CWIC had the opportunity to comment on that Bill in a letter to the Minister. While we in general supported the intent of the Bill, our view was that it did not go far enough in precluding bulk removals – and in particular those proposals for bulk removal that were the most likely to be brought forward.

We therefore welcome the current Bill C-383, which in our view, while building on Bill C-26, goes beyond it in a crucial respect through its amendment to the *International River Improvements Act* [R.S.C., 1985, c.I-20] – and in particular through the addition of a new section 4.1 which prohibits the issuance of a licence

under the *Act* for any international river improvement linking non-boundary or boundary waters to an international river, the purpose of which is to increase its annual flow. Especially in light of the broad definitions of “international river” and “international river improvement” in the legislation, this seems to us to accomplish the task of truly precluding the use of transboundary rivers as a vehicle for carrying out the export of water.

CWIC recognizes that Bill C-383 will not address all the concerns that have been raised by some Canadians with respect to the export of water. For example, potential marine tanker exports from coastal lakes and rivers would not be covered. Similarly, there will continue to be statutory exceptions that permit the export of manufactured products containing water, including bottled water or other beverages. However, while we do not preclude other legislative initiatives (apart from existing provincial legislation) to address this possibility, we also recognize that neither the *International Boundary Waters Treaty Act* nor the *International River Improvements Act* is likely to be the appropriate vehicle for such measures.

In sum, based on our research, the Canadian Water Issues Council acknowledges that the goal of protecting Canada’s water resource from bulk export is significantly accomplished by way of this proposed legislation, and we are particularly pleased to see the level of cross-partisan support it seems to have achieved to date.

Thank you.