

February 6, 2008

New law would ban water removal on environmental grounds

BY MARTIN MITTELSTAEDT
ENVIRONMENT REPORTER

The issue of how well protected Canada's water is from bulk exports has always been hotly contested.

The federal government has insisted in recent years that foreigners won't be able to get their hands on a resource some have called "blue gold," while environmentalists have been just as adamant that large-scale diversions pose an ever-present threat.

The uncertainty over whether Canada's water is at risk could be ended by tough new federal legislation prohibiting on environmental grounds the transfer of water out of any of the country's five natural drainage basins, says a new report by the University of Toronto's Munk Centre.

The report includes model federal legislation that its authors contend would head off possible NAFTA and World Trade Organization challenges over a Canadian prohibition on bulk exports by making the environmental protection of water resources the key reason for the law.

"This may present one of the last opportunities for Canada to effectively control its water, to have sovereign control over its water," said Adele Hurlley, director of the Munk Centre's program on water issues.

The draft legislation was devised by some of the country's top water experts, including



A U.S. Coast Guard vessel breaks ice in Lake Superior. The proposed legislation 'may present one of the last opportunities for Canada to effectively control its water.' MIKE FORNES/AP

Ralph Pentland, former director of water planning and management at Environment Canada, Frank Quinn, a special adviser on water transfers to the International Joint Commission, and Owen Saunders, executive director of the Canadian Institute of Resources Law at the University of Calgary.

The report and the proposed legislation will be released today, and they will add strength to some environmental orga-

nizations' argument that Canada's water is in danger of being sold to slake the thirst of a parched world.

Ottawa has played down these worries. Environment Minister John Baird issued a statement last year in response to fears that Canada, Mexico and the United States were about to negotiate a bulk water deal, saying that the country's water is well protected.

"Canada has restrictions in place to prohibit bulk removal

of water, including diversion, backed by serious fines and/or imprisonment," he said in April.

The new report says that rules prohibiting the movement of water from Canada to the United States or other countries "could represent a potential violation of our international trade obligations under both NAFTA and the WTO."

But it said legislation to restrict use of nearly all water in

Canada to the drainage basin in which it is found is justified as an environmental protection measure, based on the threats to water ecosystems from climate change, pollution, invasive species and over-use.

The drainage basins correspond to the river systems entering the country's ocean coastlines and a small portion on the Prairies that drains into the Gulf of Mexico. As an example of how the proposal would work, it would make it illegal for anyone to remove water from a river that drains into the Gulf of Mexico and place it in a river that drains into Hudson Bay. Such transfers are possible in many areas of the Prairies.

A side benefit of an approach "that focuses on water basin boundaries rather than political boundaries is that it is much more likely to be consonant with Canada's international trade obligations," the report said.

According to the report, only about 10 per cent of Canadian territory is protected by the federal government's 2002 prohibition of bulk water removals from boundary water basins.

Under the proposed legislation, Canadians, as well as foreign entities, wouldn't be able to remove water from one drainage basin to another, with a few exceptions, such as water in beer, soft drinks and other products, or for emergency uses, such as firefighting.