

**Subject: Export of bulk water**

**Date:** Wed, 3 Oct 2001 00:52:35 -0700

**From:** "Dave Sadler" <davesadler@telus.net>

**To:** <weemalkies@telus.net>, "Peter Thompson" <bedeconsulting@home.com>, "Liz James" < cagebc@yahoo.com>, <johnhunter@idmail.com>, <eandersen@seatradeshipping.bc.ca>, "Corrie Kost" <kost@triumf.ca>, "Brian Platts" <brian\_platts@telus.net>, "Allan Orr" <allandorr@home.com>, "FONVCA" <fonvca@fonvca.org>

For those concerned about the export of bulk water to the USA, here is a recent letter from Foreign Affairs which outlines the government's position. It is in response to questions raised by Andy Thompson editor of [www.waterfight.ca](http://www.waterfight.ca)  
His brief comments follow along with a link to his original letter.

Department of Foreign Affairs and International Trade  
Ottawa, Ontario  
K1A 0G2

August 28, 2001  
(received September 17, 2001)

Mr. Andy Thompson  
(waterfight.ca)

Dear Mr. Thompson:

On behalf of the Minister of Foreign Affairs, the Honourable John Manley, I wish to thank you for your letter of July 3, 2001, addressed to the Minister for International Trade, the Honourable Pierre Pettigrew, concerning the bulk removal of water from Canada. I regret the delay in replying to you.

You and many other Canadians have written expressing a broad level of concern regarding bulk water removal and the future security of Canada's freshwater resources. The Government of Canada shares the concerns you have expressed and is taking action. Over two years ago Canada announced a three-part strategy to prohibit bulk water removal out of all major Canadian water basins. We have made significant progress since then.

Firstly, Canada committed to act within its jurisdiction to prohibit bulk water removal. On February 5, 2001, Minister Manley reintroduced in the House of Commons amendments to the International Boundary Waters Treaty Act (Bill C-6). The main element of Bill C-6 is a prohibition on the bulk removal of boundary waters out of their water basins. Under these amendments, the Great Lakes and other boundary waters will have protection from bulk removals under federal law. This is significant because the Great Lakes are of sufficient size to attract developers of bulk removal projects, including for the purposes of export, or diversion schemes. As of June 2001, Bill C-6 has reached final stage in the House of Commons.

Secondly, Canada and the United States agreed on a reference to the International Joint Commission (IJC) to study the effects of water consumption, diversion and removal, including for export. The IJC, in its final report (Protection of the Waters of the Great Lakes, February 2000), concluded that the Great Lakes require protection, especially in light of the uncertainties, pressures and cumulative impacts from removals, consumption, population and economic growth, and climate change. The report directed recommendations to all levels of government in Canada and the U.S. to protect the ecological integrity of the Great Lakes Basin. Bill C-6 is consistent with and supportive of the IJC's conclusions and recommendations.

Finally, water management in Canada is a shared responsibility. Each level of government has a responsibility and each must take action. The Minister of the Environment, the Honourable David Anderson, sought endorsement by the provinces and territories of a Canada-wide accord prohibiting bulk water removals out of all of Canada's major watersheds. As a result of this initiative, all provinces have put into place or are developing legislation or regulations which accomplish this goal.

Canadian governments have full sovereignty over the management of water in its natural state, and in exercising this sovereignty are not constrained by trade agreements, including the North American Free Trade Agreement (NAFTA).

Canada's strategy of prohibiting the bulk removal of water from all major drainage basins in Canada is the best means to protect the integrity of Canada's water resources. Water is regulated and protected in its water basin, before the issue of exporting arises and before it has become a commercial good or a saleable commodity. This is a comprehensive and environmentally sound approach, and respects constitutional responsibilities. Furthermore, this approach is consistent with Canada's international trade obligations, including the NAFTA.

Canada's views in this regard have been supported by a wide range of expert opinion. The IJC, which is an independent binational commission, came to similar conclusions in its final report cited above, after exhaustive public hearings and submissions that included governmental and independent experts representing every point of view. The principle that governments have full sovereignty over the management of water in its natural state was also reconfirmed by the Deputy U.S. Trade Representative, in a formal, written submission to the IJC, where he indicated that under customary international law, non-navigational rights to a watercourse-including the right to control or limit extraction-belong solely to the country or countries where the watercourse lies.

An export ban or some other trade measure may appear as a quick and simple solution. However, it is the wrong approach. It would make our water resources more vulnerable, not less, and make them harder rather than easier to protect. An export ban would only regulate the cross-border movement of water once it has become a good and would therefore be subject to international trade agreements. An export ban would not focus on the environmental dimension, has possible constitutional limitations and may be vulnerable to a trade challenge.

I invite you to visit our Web site on this subject, where there is more information on water removal: (click [here](#)).

Thank you again for writing.

Yours sincerely,  
Paul Anderson  
Ministerial Correspondence Unit

(waterfight note: the website address provided by Mr. Anderson is a dead link at time of publication)

## Ottawa Finally Responds

After more than 2 months of waiting, waterfight.ca has received a letter from Ottawa in response to my letter to Pierre Pettigrew, Canada's Minister of International Trade. To read my letter click on the link: [http://www.waterfight.ca/letters\\_pettigrew.html](http://www.waterfight.ca/letters_pettigrew.html)

I will be firing off a response shortly. If anyone has input on this new letter, or ideas for a rebuttal, please let me know ASAP. My first take on it is that it's interesting what is discussed and not discussed in the letter. Mr. Paul Anderson, who wrote the response for the Department of Foreign Affairs and International Trade, focuses on the Great Lakes (?) and the idea of an "export ban", neither of which were issues raised in my letter to Pettigrew.

Andy Thompson  
*Editor*  
[www.waterfight.ca](http://www.waterfight.ca)