

Water

Background

Canada needs a national water policy based on the principles of water as a commons, public trust and human right. The notion of the commons asserts that water is a common heritage that belongs to the Earth, other species and current and future generations. The recognition of surface and ground water as a public trust requires that the government protect it for the public's reasonable use, and to make private use subservient to the public interest. Canada also needs a water minister to coordinate the over 20 departments that set federal policies affecting water.

On July 28, 2010, 122 countries voted to pass a resolution at the UN General Assembly recognizing the human right to water and sanitation. On September 23, 2011, the UN Human Rights Council (HRC) passed a resolution (A/HRC/18/L.1) on the human right to safe drinking water and sanitation¹ and called upon governments to:

- develop comprehensive plans and strategies, including the definition of responsibilities for all water and sanitation sector actors, to achieve progressively the full realization of the right to safe drinking water and sanitation for all;
- monitor and assess the implementation of plans of action and ensure the free, effective, meaningful and non-discriminatory participation of all people and communities concerned, particularly people living in disadvantaged, marginalized and vulnerable situations;
- ensure financing to the maximum of available resources and that services are affordable for everyone; and
- provide for a framework of accountability that provides for adequate monitoring mechanisms and legal remedies.

Despite the Canadian government's continued opposition to the human right to water at key UN meetings, including abstaining in the UN General Assembly vote, the UN HRC has set out clear legal obligations to which all governments are bound. The AFB will take measures to uphold the right to clean, safe drinking water and sanitation for everyone in Canada. The AFB will also improve water quality and knowledge on water quantity, protect the Great Lakes Commons, reinstate funding to critical environmental departments and protect water sources in Canada from hydraulic fracturing, tar sands development, the Schedule 2 loophole and trade agreements.

Current Issues

National Public Water and Wastewater 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 (FCM).² Water and wastewater needs alone are estimated at \$31 billion for deferred maintenance and deteriorating infrastructure.³ The AFB recognizes the urgency of addressing the water and wastewater infrastructure deficit as delaying upgrades will exacerbate water leakage and increase future infrastructure costs.

The AFB will devote spending exclusively to publicly owned and operated water infrastructure instead of promoting privatization through the Public-Private Partnership (PPP) Canada Fund. Municipalities have the experience and expertise in water and wastewater management and are far more accountable to the public than private corporations. Water and wastewater projects will be excluded from PPP Canada funding criteria.

200 billion litres of raw sewage are flushed into our waterways every year. While the federal government has introduced new wastewater regulations, higher levels of government must provide funding to municipalities to implement the regulations and protect wastewater treatment as a public service. Members of the FCM calculate that the new regulations could force cities to spend up to \$20 billion in upgrades over the next two decades.

Canada drew lessons from the Walkerton disaster and established provincial regulations and mandatory certification requirements for water operators. There is, however, more that should be done as Canada only has guidelines and needs to enact national legally binding drinking water standards.

Where the need exists, communities can apply for water and wastewater infrastructure funding from the ReBuild Canada Fund or the Long-Term Infrastructure Fund (see the Cities chapter).

First Nations' Water Rights

Despite repeated pledges from the federal government to ensure clean drinking water, Health Canada reported 131 drinking water advisories in First Nations communities last November.⁴ The number of advisories consistently hover around 100 with some communities under advisories for over 10 years.⁵ The “Safe Drinking Water for First Nations Act” was tabled in Parliament on May 2010 with the stated objective of ensuring First Nations have access to safe drinking water. This was however called into question by First Nations communities when the federal government failed to consult them, and did not make clear how these regulations would be implemented to address the lack of infrastructure, funding and training within First Nations. The National Assessment of Water and Water Systems in First Nation Communities, a two-year, government-commissioned study released in July 2011, estimated that the federal government needs to invest \$4.7 billion over the next 10 years. However, the alarming and urgent conditions on reserves require that the AFB make these investments within five years.

The AFB respects Aboriginal self-determination and the authority of Indigenous governments. It incorporates Indigenous knowledge and includes Indigenous peoples in decision-making on water and wastewater, including the development of legislation of drinking water standards for First Nations reserves.

Improving Water Quality and Sustaining Quantity

The responsibility for monitoring water quantity and quality is shared among all three levels of government. Canada has the resources to be a leader in environmental research but Canadian scientists are concerned that research in this area has declined and has led to gaps and inconsistencies in information because of a lack of political will, severe funding cuts and a lack of coordination. To address the numerous information gaps in water quality and quantity the AFB will include funding for the UN Global Environmental Monitoring System/Water Programme, a global water quality database. To support a call for a junior water minister by Liberal water critic Francis

Scarpaleggia in 2007,⁶ the AFB will create a water minister position to coordinate the over 20 departments that set federal policies affecting water.

Although Canada holds nearly 20% of the world's freshwater, only 1% of our water is renewable, or replenished by rain or snowfall every year. Last year, a Statistics Canada study showed that renewable water in southern Canada has declined 8.5% from 1971–2004.⁷

A third of Canadian 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. The AFB therefore commits to implementing a thorough groundwater protection plan that will include:

- the application of the public trust doctrine to groundwater which would give priority to basic human needs and water for ecosystems;
- 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 top net exporter of bottled water.⁸ The AFB will introduce stricter regulation that will require bottled water corporations to identify their sources on labels and work with provinces to demand restrictions on water-taking permits.

In the last several 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. The AFB bans bulk water exports as these projects would be tremendously costly, require vast amounts of energy, and pose serious threats to watersheds.

Protecting the Great Lakes Commons and Other Priority Waterways

The funding will be used towards cleaning up areas of concern and priority zones, invasive species, calculation of water in the Great Lakes and total water withdrawals, wetlands protection, and an inventory on pollutants that are not covered by the Great Lakes Water Quality Agreement and the National Pollutant Release Inventory.

The Great Lakes hold the majority of Canada's freshwater. Forty-two million people depend on the lakes for drinking water. However, the Great Lakes face significant threats including pollution, extraction, wetland loss

and invasive species. The 2011–12 federal budget allocated an additional \$5 million for 2011–13 on top of the \$16 million for 2010–12 to “implement its action plan to protect the Great Lakes.”

The AFB will open negotiations with the U.S. to incorporate the public trust doctrine into the Great Lakes Compact Agreement which will eliminate an existing loophole that gives bottled water corporations the right to withdraw unlimited amounts of water in containers of 20 litres or less. It will also refer all boundary water matters to the International Joint Commission (IJC), which is responsible for resolving conflicts over boundary waters between Canada and the U.S., and concede to the authority of the IJC.

Reinstating Environmental Assessments and Funding to Environment Canada

The government is drastically reducing funding for environmental assessments. According to the Canadian Environmental Assessment Agency’s Reports on Plans and Priorities, the agency is planning a 43.1% cut in spending, dropping from \$30 million in 2011–12 to \$17.1 million in 2012–13.⁹ This cut follows a 6.9%, or \$2.2-million, drop in funding in 2010–11. Along with the budget cuts, the agency is facing a one-third reduction in full-time staff. The reduction in funding is in part due to sunset funding for Aboriginal consultations. The AFB will renew the sunset funding to ensure the free, prior and informed consent of First Nations governments as required under the United Nations Declaration on the Rights of Indigenous Peoples. The AFB funding will ensure stringent environmental assessments on energy and mining projects to protect Canada’s water sources.

Environment Canada’s Reports on Plans and Priorities from 2010–11 and 2011–12 revealed several alarming cuts to critical water program activities at Environment Canada. Three hundred and thirty-three jobs are to be cut from these two program activities alone from 2011–13.¹⁰ The AFB will return spending to 2010–11 funding levels before the cuts.

Stop the Devastation of the Tar Sands

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.

First Nations and Métis in Fort Chipewyan believe high cancer rates in their communities are caused by proximity to tar sands operations. Tar sands oil is even travelling to the Great Lakes through a network of pipelines and refinery expansions. A just transition away from tar sands and all fossil fuels, given the reality of climate change, is clearly imperative.

Nationwide Ban on Hydraulic Fracturing

The AFB calls for a nationwide ban on hydraulic fracturing or fracking. Fracking is a controversial method using sand, water and chemicals to blast rock formations to extract natural gas. Fracking fluids have contaminated residents' drinking water with toxic chemicals and methane. Approximately two to nine million gallons of water are required for a single "fracking" job. The Minister of the Environment has requested that Environment Canada and the Council of Canadian Academies conduct reviews on fracking. The AFB calls for a moratorium on fracking until the reviews are complete and allocates funding to incorporate public input in the federal reviews on fracking.

Removal of Schedule 2 from Fisheries Act

The AFB will remove the Schedule 2 loophole from the 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 dumpsites for mining waste. Canada is the only industrialized country to allow this practice. By closing this loophole, the AFB will save taxpayers millions in remediation, wastewater treatment and health care costs as well as protect our watersheds for current and future generations.

A Climate Change Plan

The 2008 report by the Intergovernmental Panel on Climate Change highlighted the varied effects of climate change on water in Canada including droughts, intense precipitation and increased temperatures. The federal 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.

Virtual Water Exports

Virtual water is the amount of water used to produce or process a good or a service. The government currently does not track how much virtual water is exported from Canada. According to the report *Leaky Exports: A Portrait of the Virtual Water Trade in Canada*, Canada net exports 59.9 Bm³ of virtual water each year, making it the second net virtual water exporter in the world.¹¹

Exclude Water from NAFTA, CETA and All Other Trade Agreements

The AFB will exclude water as a good and service from all international trade agreements including the North American Free Trade Agreement (NAFTA) and the Canada-EU Comprehensive Economic and Trade Agreement (CETA). When water is considered a tradable good and service under international trade agreements water-related policy and other measures become vulnerable to investor-state challenges that involve a proprietary interest in water. This issue became urgent in 2010 when the federal government settled a NAFTA challenge brought against the Government of Newfoundland and Labrador by AbitibiBowater, one of the largest pulp and paper mills in the world, for \$130 million. Part of this amount was understood by the firm to include compensation for provincial water rights it cannot legally own in Canada, setting a dangerous precedent. By excluding water in trade agreements, the AFB will avert threats to Canada's water and costly NAFTA challenges. It will also protect the rights of municipalities, provinces and territories to maintain or create new public monopolies for the delivery of water services and sanitation.

AFB Actions

The myth of water abundance, the lack of legislation and inadequate funding 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 clean drinking water in all communities, while ensuring that water services remain in public hands. The following measures will begin the too-long-delayed process of developing a policy that makes the conservation and protection of our water sources a public trust and safe and clean drinking water and sanitation a human right.

Recognizing the Human Right to Water and Sanitation

The UN recently passed a resolution setting out clear obligations for governments to progressively realize the human right to water and sanitation. Therefore, the AFB allocates:

- \$4 billion to be invested in a National Public Water and Wastewater Fund. Municipal water transfers would then reach their yearly target of \$3 billion in 2013–14 in order to pay down the \$31 billion water and wastewater infrastructure deficit in 10 years;
- \$1 billion for implementing national standards for municipal sewage treatment and wastewater effluent quality (with \$1 billion per year over the next 20 years), including research and funding for environmentally friendly sewage treatment methods;
- \$150 million over three years will be allocated to establishing these standards, water operator training and certification in the public sector;
- \$1.6 billion to build, upgrade and maintain water and wastewater infrastructure in First Nations communities (and \$1.25 billion yearly for the next four years, see the AFB Aboriginal Peoples Chapter);
- \$5 million to conduct research on the impacts of climate change on watersheds and infrastructure, renewal and funding of the Flood Damage Reduction Program, drought and flood planning and support for Indigenous communities; and
- \$5 million for a labeling program for water-efficient fixtures and appliances and water conservation programs.

Sustainability

Without solid information about how much water Canada has or uses, governments across the country are approving plans for bottled-water withdrawals and other industries. The AFB allocates:

- \$1 billion to water quality and water quantity monitoring frameworks to assist provinces and communities, increase monitoring stations, train staff in water monitoring, contribute to the UN Global Environment Monitoring System and create a new junior water minister position;

- \$500 million to implement a comprehensive action plan to protect to the Great Lakes;
- an additional \$950 million to clean up priority waterways (and \$950 million for each of the next four years);
- \$3 million to identify and map Canada’s groundwater sources and co-ordinate a strategy to prioritize water use, introduce stricter regulations on the bottled water industry and ban bulk water exports; and
- \$1 million to complete a comprehensive review on virtual water exports from Canada.

Pollution

Despite a dearth of information about the effects on water of tar sands extraction as well as hydraulic fracturing, several provinces still allow the practice without adequate environmental impact oversight. The AFB allocates:

- \$140 million to rectify the proposed cuts to Environment Canada, specifically to water resources and substance and waste management program activities (with \$73.3 million in 2013–14);¹²
- \$50 million to mandate thorough environmental assessments for all energy and mining projects;
- \$30 million to monitor and complete an in-depth study of the water effects of tar sands development; and
- \$2 million to incorporate public input in the federal reviews on fracking.

Notes

1 UN Human Rights Council, September 23, 2011, A/HRC/18/L.1 The human right to safe drinking water and sanitation, <<http://www.ewash.org/files/library/water%20ores.sep.2011%5B1%5D.pdf>>.

2 Saeed Mirz, Danger Ahead: The Coming Collapse of Canada’s Municipal Infrastructure, November 2007, <http://www.fcm.ca/Documents/reports/Danger_Ahead_The_coming_collapse_of_Canadas_municipal_infrastructure_EN.pdf>.

3 Ibid.

4 Health Canada, Drinking Water and Wastewater, accessed January 16, 2012, <<http://www.hc-sc.gc.ca/fniah-spnia/promotion/public-publique/water-eau-eng.php#adv>>

5 Health Canada, First Nations Communities with Drinking Water Advisories as of December 31, 2010, accessed January 16, 2012, <<http://www.scribd.com/mobile/documents/52564707>>.

- 6** Canwest News Service, “Liberal government would name water minister,” December 5, 2007, <<http://www.canada.com/topics/news/national/story.html?id=f5doda84-1d9a-4553-949d-100a96535d2f>>.
- 7** Statistics Canada, Study: Freshwater supply and demand in Canada, September 13, 2010, <<http://www.statcan.gc.ca/daily-quotidien/100913/dq100913b-eng.htm>>.
- 8** Agriculture and Agri-Food Canada, Agriculture, Food and Beverages Profile — Republic of Korea 2010, updated April 12, 2010, <<http://www.ats.agr.gc.ca/asi/4379-eng.htm>>.
- 9** Treasury Board of Canada Secretariat, Reports on Plans and Priorities for Canadian Environmental Assessment Agency, <<http://www.tbs-sct.gc.ca/rpp/2011-2012/index-eng.asp?acr=1742>>.
- 10** Ibid.
- 11** Rahman, N., Barlow, M., and Karunanathan, M. (2011). *Leaky Exports: A Portrait of the Virtual Water Trade in Canada*. Ottawa: Council of Canadians. <<http://canadians.org/water/documents/virtual-water-0511.pdf>>.
- 12** Treasury Board of Canada Secretariat, Reports on Plans and Priorities for Environment Canada, <<http://www.tbs-sct.gc.ca/rpp/2011-2012/index-eng.asp?acr=1767>>.