

Transboundary Waters Protection Act.htm

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August 3, 2010

[Simon Fodden](#)

Transboundary Waters Protection

In the middle of May, Minister of Foreign Affairs Lawrence Cannon introduced Bill C-26, the [Transboundary Waters Protection Act](#), which has received 1st reading. According to the (as usual) excellent [legislative summary](#) from the Parliamentary Information and Research Service, the Bill has as its main features expansion of the waters affected by the existing prohibition on bulk water removals. Now waters that flow across the boundary between the U.S. and Canada are included, whereas before only waters that straddle the boundary were affected.

Prohibited "bulk removal" is defined as follows:

'bulk removal' means the removal of water from boundary or transboundary waters and the taking of that water, whether it has been treated or not, outside the Canadian portion of the water basin set out in Schedule 2 in which the waters are located

(a) by any means of diversion, including by pipeline, canal, tunnel, aqueduct or channel; or

(b) by any other means by which more than 50 000 L of water are taken outside the water basin per day.

Bulk removal does not include the taking of a manufactured product that contains water, including water and other beverages in bottles or other containers, outside a water basin.

Critics point out that this does not prohibit the export of bottled water and that the 50,000 litre limit is not adequately restrictive. The Munk School of Global Affairs Program on Water Issues has [written the Minister](#) [PDF] to propose a number of "friendly" amendments. The letter points out what have to be two glaring — and therefore intended — omissions. 1. The likeliest means of exporting water from Canada would be to have water from basins that are neither transboundary or boundary basins pumped into a transboundary river, effectively exporting it as it flows out of the jurisdiction. 2. Though the Bill would prohibit the use of canals or pipelines, etc., in connection with boundary or transboundary waters, it says nothing about their use with respect to other water basins.

David Johansen, who prepared the legislative summary, has very recently updated his Background Paper on [Bulk Water Removals: Canadian Legislation](#) [PDF].

Simon Fodden is the founder of Slaw. He taught law at Osgoode Hall Law School for more than 30 years before he retired to focus on writing, publishing, and IT and law.

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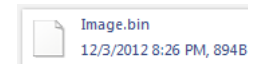
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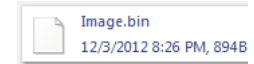


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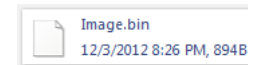
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