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## **Standing Committee on Environment and Sustainable Development**

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**Thursday, October 28, 2004**

**Chair**

**Mr. Alan Tonks**

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## Standing Committee on Environment and Sustainable Development

Thursday, October 28, 2004

• (0900)

[English]

**The Chair (Mr. Alan Tonks (York South—Weston, Lib.)):** Good morning, everyone. It's a bright, crisp autumn morning in Ottawa, and I think it makes everyone feel they're ready to take on an exhilarating day.

We start off with an issue that has been of great concern to many of us, which is the Great Lakes Charter annex. We have as witnesses this morning Jennifer Moore, director general, water policy and coordination directorate—welcome, Jennifer—Karen Brown, assistant deputy minister, environmental conservation service—welcome—and Bill Crosbie, director general, North American bureau, Foreign Affairs, and Peter Fawcett. Welcome.

I would also like to welcome His Excellency—I call him “His Excellency”—Herb Gray. Thank you very much for being here this morning, Mr. Gray.

We have a quorum, and with that, Karen, shall we put it over to you?

**Mrs. Karen Brown (Assistant Deputy Minister, Environmental Conservation Service, Department of the Environment):** Thank you very much.

Good morning, everyone, and thank you.

If the committee allows, we'll start with a short presentation of the deck we've provided to the committee, and Jennifer Moore will present that deck. Following that, Bill Crosbie will provide a few introductory remarks, and then we'll open it up for questions from the committee.

Thank you very much.

**The Chair:** Thank you very much.

Ms. Moore.

**Ms. Jennifer Moore (Director General, Water Policy and Coordination Directorate, Environmental Conservation Service, Department of the Environment):** Thank you very much.

The clerk has distributed a deck, and what we wanted to do in the next 10 minutes or so is just go through the context around the Great Lakes and give you a federal perspective. We'll talk a bit to the Great Lakes Charter, its background, and some of the considerations we are working through and also give you a sense of where we see the status and what the next steps are.

This slide reminds us of what the Great Lakes Basin is. In this context it's the Great Lakes Basin within the provinces of Ontario

and Quebec and the eight U.S. border states. That means Minnesota, Wisconsin, Illinois, Indiana, Michigan, Pennsylvania, Ohio, and New York. That's the scope of the Great Lakes Basin.

When we think about the Great Lakes Basin in terms of the range of instruments as they apply to the basin, on slide four in the deck is a bit of a presentation, an overview that talks to the key instruments. On an international perspective we have the Boundary Waters Treaty, which was signed by both countries in 1909. It's a binational treaty binding both Canada and the U.S., and in that sense it looks at the questions of obstructions and diversions affecting natural level and flow of boundary waters and requiring working approval of the International Joint Commission. An umbrella treaty, the Boundary Waters Treaty of 1909 binds both Canada and the United States.

In Canada and Canadian waters, the treaty is implemented through the International Boundary Waters Treaty Act; this is our federal enabling legislation that implements the treaty. Within Canada we have used that to prohibit out-of-basin transfers from the Canadian portion of boundary waters, which in this case are principally the Great Lakes and the St. Lawrence. On the U.S. side there is the Water Resources Development Act. Then at the provincial level the key instrument within Ontario is the Water Resources Act, which prohibits out-of-basin water transfers; and within Quebec it's the Water Resources Preservation Act, which prohibits out-of-province water transfers. On the U.S. side the eight border states have a wide variety of state regulations that deal with water quantity in one way or another.

Then in terms of something we would look at as a subnational instrument, we have the Great Lakes Charter. The charter itself was agreed to in 1985, there was an annex in 2001, and then in recent months there have been implementing agreements for these instruments that have been out for consultation. On this chart you'll see that in terms of the most recent instruments, the one that affects Canada in terms of being non-binding is the Great Lakes Basin Sustainable Water Resources Agreement, which is in draft form and has been out for consultation. On the U.S. side, in addition to that particular instrument, there's also a compact. I'll come back to the details in a moment.

On slide five we wanted to give you a bit of a sense of the current protection within Canada in terms of Canada's prohibition of out-of-basin transfers. As I mentioned, we have the federal legislation and regulations through the International Boundary Waters Treaty Act and regulations that prohibit bulk out-of-basin transfers from boundary waters. This prohibition refers to removing water from boundary waters and taking it outside the water basin where waters are located. There are convictions associated with any infringements to this particular prohibition. Across the country, we have worked with provinces that have as well implemented provincial laws, policies, and regulations to deal with out-of-basin transfers, prohibiting out-of-basin transfers.

On slide six there's a bit of background for the Great Lakes Charter. It was negotiated by members of the Council of Great Lakes Governors—that's the eight U.S. Great Lakes states, Quebec, and Ontario. Then we have the umbrella charter, which was agreed to in 1985, and a draft implementing agreement, a charter annex, which was agreed to in 2001. The detailed implementing agreements are now out for consultation. These are the ones that were released in July 2004. Together, these are a set of interrelated instruments and they move from the 1985 charter, which is general principles, to increasingly specific measures.

● (0905)

On slide seven, just to go through this in a little bit more detail, the Great Lakes Charter, 1985 is a non-binding instrument, and the general principles that are contained in it are things like integrity of the Great Lakes Basin, cooperation among jurisdictions, protection of the water resources in the Great Lakes, notice and consultation in terms of activities going on, and a series of cooperative programs and practices.

The Great Lakes Charter, 1985 also asked for further details to be worked on by all parties, and in 2001 an annex was released. These details are talked about a little bit on slide nine. Supplementary to the original 1985 charter, it reaffirms the commitments of the five principles, which I just went through. It commits governors and premiers to development of a common management regime. It applies to new and increased in-basin withdrawals and out-of-basin diversions proposed for Great Lakes' surface and groundwater, and it also asks that eventual instruments that would be worked on later on would be binding.

At the time, the Government of Canada expressed concerns to the Great Lakes governors, who were all parties to the original annex, noting that there was concern about the permissiveness of the standard within the 2001 annex, potential conflict with the Boundary Waters Treaty, how it might be consistent with the Great Lakes Water Quality Agreement, and also flagged some concerns around the proposed binding nature of the agreements in terms of the 2001 annex.

Since 2001, the negotiators at the table, which are the eight Great Lakes states and the provinces of Ontario and Quebec, have continued their work. Then in July of this year they came out with draft implementing instruments. Those are described briefly on slide nine and the next couple of slides.

There are two draft documents. One is the Great Lakes Basin Sustainable Water Resources Agreement, which is non-binding, on

the understanding that this would be signed by all 10 parties. Those are the eight Great Lake states and Ontario and Quebec. The other is a Great Lakes Basin Water Resources Compact, which would be binding under U.S. federal law, therefore linked to the Water Resources Development Act, and this would pertain to the eight American Great Lakes states.

These collectively set out a decision-making process for new and increased diversions and consumptive uses of Great Lakes water, and they also establish threshold triggers based on the proposed quantity of water under consideration.

On slide 10, going through the Great Lakes Basin Sustainable Water Resources Agreement, this is the one that is non-binding and that all 10 parties would sign. It would establish a review body of Great Lakes governors and premiers. It would be non-binding, according to the text, and would be there to review new and increased consumptive uses above review threshold levels. It applies, as we understand it, to both in-basin and out-of-basin proposals, and it also provides that individual provincial/state management and regulation would continue on for activities that are below that threshold level. The idea is that the water resource management activities below a certain level would be dealt with in terms of provincial/state laws or regulations. Above a threshold level they would be looked at by the 10-party review body.

The second part of the implementing instruments is the Great Lakes Basin Water Resources Compact. This applies to the U.S. Great Lakes states only. It too would establish a review council. The same thresholds that apply to the broader 10-party agreement are contained within the U.S. compact, and it would be legally binding on American parties. It has some voting rules within the draft text that's been circulated. The draft talks about the new and increased diversions. You would have to have unanimity—all Great Lakes states would have to agree. And in terms of new increased consumptive uses, it would be six of the Great Lakes states.

● (0910)

These are specific parts of the draft agreement that's been out for consultation. Again, below a certain threshold level, individual state management and regulation regimes would apply to the thresholds. The draft compact, this agreement that's been out, will have to be approved by state legislatures and the U.S. Congress.

That's an overview of the implementing instruments that have been out for consultation over the last number of months.

On slide 12 is a little bit of a sense of the considerations that give you a bit about our federal perspective. The federal government will provide comments to the Council of Great Lakes Governors. Our comments on the draft instruments will be very much informed by the following considerations: consistency with Canada's prohibition on bulk out-of-basin transfers of boundary waters; obligations under the Boundary Waters Treaty—no effect on levels and flows; making sure that it's based on ecosystem perspectives—the importance of protecting ecosystems in communities that depend on a sustainable supply of water in the Great Lakes system; relevance of science-based policy informed by both sound science and reliable data; and a precautionary approach, a prudent action that's very important to face potentially serious risk without having to weight scientific uncertainty.

These are the considerations the federal government is now looking at and assessing in the context of the comments that we will make to the council.

Finally, in terms of current status and next steps, as we understand it, as I had mentioned, the Government of Canada will provide comments to the governors at some point in November. We also intend to share our comments with Quebec, Ontario, and our U.S. counterparts.

As we also understand, the Great Lakes states and provinces, in other words the working group of the council, are going to resume negotiations on the draft implementing instruments some time in 2005 and will be looking at these in the context of the public comments that have been received over the consultation period, which has just closed. It started in July and concluded in mid-October. We also understand that there should be revised text for these instruments sometime later in 2005.

Thank you, Mr. Chair.

• (0915)

**The Chair:** Thank you, Ms. Moore.

Back to you, Karen.

**Mrs. Karen Brown:** Thank you.

I'll ask Bill Crosbie if he can provide a few opening comments.

**Mr. William Crosbie (Director General, North American Bureau, Department of Foreign Affairs):** Thank you, Karen. Thank you, Mr. Chairman.

We've prepared an information deck on the Boundary Waters Treaty. In the interest of time, we can make it available to members.

I would like to stress to the committee, as Minister Pettigrew did in the House last week, that, first, U.S. and Canadian obligations, under article 3 of the treaty, are unaffected by the proposed Great Lakes Charter annex implementing agreements. Again, those commitments or obligations already referred to are: no uses or diversions of boundary waters that affect the levels or flows on the other side.

Second, the parties to the Boundary Waters Treaty, the two federal governments, must ensure that these agreements between states and provinces can be implemented in accordance with their obligations under the treaty.

Third, as Minister Pettigrew stated to the House last week, we are currently analyzing the proposed agreements for consistency with the Boundary Waters Treaty, in consultation with the governments of the United States, Ontario, and Quebec.

On the U.S. side, Congress delegated authority to the Great Lakes states to develop new standards for water management under the U.S. Water Resources Development Act. The development of the standards are under the auspices of the Council of Great Lakes Governors. That includes Ontario and Quebec, in recognition of their role in water management in the basin.

As mentioned in the deck, there are two agreements, a non-binding international instrument involving Ontario and Quebec, and a charter, which is binding between states and will have to be approved by all Great Lakes states, including implementing legislation, and then by the U.S. Congress. It's a very complex process on the U.S. side.

The U.S. government has recently submitted comments to clarify, but nothing in the compact, once approved by Congress, conflicts with U.S. federal and international law or its obligations under the Boundary Waters Treaty. Some of the provisions will enter into force when signed by all states, but the standards will not apply until the full approval process is completed, which is expected to take up to 10 years.

All that is to say that the federal government is very much seized of the matter, looking very carefully at developing comments, and looks forward to hearing comments from the committee.

I should say for myself that I've just started this job a few weeks ago, so I'll be relying on my colleague Peter Fawcett, who has himself been involved quite heavily in many of the consultations with the provinces, along with colleagues in Environment Canada.

Thank you.

**The Chair:** Thank you, Mr. Crosbie.

Mr. Fawcett, do you wish to add anything?

**Mr. Peter Fawcett (Deputy Director, U.S. Relations Division, Department of Foreign Affairs):** Not at this time, Mr. Chairman.

**The Chair:** Good. Well, if there isn't any further comment from your side, perhaps we'll go to the committee now. Members of the committee will adhere to our agreed-upon order. We have the Conservatives who will ask questions, then we'll go to the Bloc, then over to the Liberals, then over to the NDP, and then I'll take questioners in the order that they occur.

Mr. Watson.

**Mr. Jeff Watson (Essex, CPC):** Thank you.

Can you clarify how many questions I can ask here, right off the bat?

**The Chair:** You have up to 10 minutes.

**Mr. Jeff Watson:** Okay.

First of all, I want to thank all the witnesses for appearing before the committee. I certainly appreciate that. I know this has come up very quickly and you've done your best to give us a presentation here.

I have a couple of concerns and want to probe a couple of areas here. The first concern I have is about whether water's going to become a commodity. The Council of Great Lakes Governors had a legal opinion on whether or not in-basin and out-of-basin withdrawals could be distinguished. In other words, their opinion was that if you treated water like a commodity inside the basin, then federal and international law would require you to treat it like a commodity outside the basin. The International Joint Commission, though, has a contrary opinion on this matter.

I guess the question I have here is, when we have conflicting legal opinions, if the governors accept that water is being treated as a commodity in the agreements, does it not mean that water will be treated as a commodity under NAFTA?

I'm not sure who will answer that one. Somebody can take a stab at that.

• (0920)

**Mrs. Karen Brown:** I'll start. I think we want to make it clear that we're not lawyers, any of us, so we're not professing a legal opinion.

What has always been clear to the Government of Canada, in terms of its views in this regard, is that water in its natural state is certainly not considered a commodity, and water maintained in its natural state therefore is protected, if you like, under the NAFTA rules. That's why the Government of Canada's policies on bulk water removal focus very much on ecosystem health, and its withdrawal of policy is focused very much on the basin itself.

I can't comment on outside opinions or legal opinions in that regard, but it is clearly a matter of some concern to all levels of government to ensure that we are consistent in how we approach this; that we maintain the ecological integrity of the Great Lakes and their basin. I'm assuming that the Council of Great Lakes Governors is very seized of this matter, in addition to both Canada and the U.S.

**Mr. Jeff Watson:** So that's the federal government's perspective. I'm going to probe the U.S. side for a second here. I'm going to put this in a political context because I'm a politician, of course. But the current proposed...let me just step back for a second here.

The Great Lakes Basin Water Resources Compact, as I'm reading here, is the one you say requires unanimity among U.S. states and then would also have to be approved by Congress. I'm going to put a political context around this, if you will, for a second here, supposing that this formula goes forward.

You know, currently we have a different political climate in the United States. We have hog counter bills. We have bills against softwood lumber. Borders are closed because of BSE. There's a security climate where Canada is not necessarily perceived as being on board with the United States. The political climate over there raises concerns for me that it's actually quite easy to achieve some amount of unanimity on diverting resources like water—or commoditizing water, if you will—without regard for what it really means to the Canadian side.

I'm going to ask a question here. You know it requires unanimity on the U.S. side. Say they approve a water diversion or a massive diversion outside of the Great Lakes Basin. What recourse does Canada have if we disagree with that? I'll make it a little more specific. If Chicago, for example.... I shouldn't say Chicago because it's inside the basin. But if a larger community outside of the Great Lakes Basin was diverting water for its use and then putting it into the Mississippi River Basin, which is an entirely different basin, and that was approved with unanimity on the U.S. side, what recourse would we have to say no to that?

**Mrs. Karen Brown:** First, I think it's worth repeating that the U.S. State Department has provided comments to the Great Lakes governors with respect to these agreements and has clearly indicated that it wishes to see a clause inserted into the compact to state very clearly that the Boundary Waters Treaty—which is the Canada-U.S. treaty—will prevail, notwithstanding all other matters that are under consideration.

In that regard, I won't go further, because I don't know anything further with respect to what the U.S. views are, but we do know with some certainty that the U.S. State Department has made this request very officially to the Great Lakes governors and clearly has signalled a very strong commitment to the Boundary Waters Treaty, which is in fact the treaty that governs all of the Great Lakes.

So the stop-gap is the Boundary Waters Treaty itself, which both levels of government have made a commitment to, and the State Department has clearly indicated to the governors that they must live within that treaty.

• (0925)

**Mr. William Crosbie:** I'd just add that we can provide the committee with a copy of the comments from the U.S. State Department that, as Karen has already said, clearly state their commitment to the Boundary Waters Treaty and—

**Mr. Jeff Watson:** When were those comments made, if you don't mind my asking, as far as the State Department's direction is concerned?

**Mrs. Karen Brown:** Very recently. Last week?

**Mr. Jeff Watson:** Perhaps I'm naturally a little bit cynical. I'm still not satisfied that because they say that today, that's how they feel about it, that somehow that won't change. My great fear is that somehow we're going to be left with an agreement that gives us no recourse. I don't know if we necessarily need a veto per se, but if we don't like a diversion that's approved on their side of the border, what recourse are we left with on our side of the border?

We also thought softwood lumber and a number of the other political problems would have been cured a long time ago.

If I can probe my concern for a minute, going back to the commodification of water, here we go again. The federal government says it's not a commodity. If the U.S. disagrees and they're of the opinion that it is a commodity, I keep wondering what our recourse will be as a federal government here if the U.S. simply disagrees or if we have a real disagreement. What's built into this agreement that gives us some sort of veto or some sort of recourse if we have a difference of opinion with the United States? I guess that's what I'm trying to probe here.

**Mrs. Karen Brown:** First, we're not party to the agreements that are being discussed here. I think we've made that very clear. The federal government is not party. The provinces and territories, Ontario and Quebec, obviously, as well as the U.S. states are.

But just to come back to that—and Peter can add more—the Boundary Waters Treaty is in fact how we would manage that, and we would fall back on the Boundary Waters Treaty. Canada and the U.S. have had excellent cooperation since the inception of the treaty, working very closely through the IJC and its relevant bodies and agencies.

Perhaps Peter can add additional comments.

**Mr. Peter Fawcett:** Thanks very much.

Maybe I can just go back to the first question you asked about the differing opinions that the Council of Great Lakes Governors received and that of the IJC.

The opinion that the Council of Great Lakes Governors received was related to U.S. law, and the opinion—and one we share, frankly—that the IJC has put forward represents international law. To go to the specifics of the question of in-basin versus out-of-basin, clearly the international law experts agree, as we've done in our own implementing legislation under the International Boundary Waters Treaty Act, that you can discriminate between in-basin and out-of-basin use.

It's because of the existence of the Boundary Waters Treaty. There is an international regime that covers the Great Lakes; therefore, you can take that. I think the proof of the pudding is our own law, which in fact provides the highest level of discrimination, an absolute prohibition on bulk water removals on our side.

So the opinion that the Council of Great Lakes Governors has received is related to U.S. law. I'm not a constitutional lawyer or an expert in that area, but clearly what the council is trying to do is to rationalize, if you will, these two competing opinions.

As I say, we certainly share the view that's expressed by the IJC that, because of the international regime in the Great Lakes, international law would prevail. Also, I think the statement by the U.S. government would indicate a similar view.

**Mr. Jeff Watson:** I have two very brief questions, just to wrap up. I have one minute.

First, I'm looking at a quote from the Council of Great Lakes Governors, in the overview of the charter annex, that says "If you treat water like a commodity inside the basin, federal and international law would require you to treat it like a commodity outside the basin". Now you're saying the IJC says it's about

international law. In their opinion, international law will draw a distinction. So there's a disagreement there.

I want to move on to another question here. I'll get to this one right now: does the American proposal, as it is written, constitute a violation of the Boundary Waters Treaty?

**Mrs. Karen Brown:** That's part of what we're reviewing at the moment. We're still awaiting the legal opinion. We're very carefully reviewing the agreements, as Minister Pettigrew has indicated in the House.

Clearly our biggest concern is to ensure that these agreements are in fact consistent with the Boundary Waters Treaty and in fact if there is a way to implement them consistent with that treaty. So that review is underway.

**Mr. Jeff Watson:** Okay, thank you very much.

**The Chair:** Thank you.

Mr. Bigras.

● (0930)

[Translation]

**Mr. Bernard Bigras (Rosemont—La Petite-Patrie, BQ):** Thank you very much, Mr. Chair.

My colleague outlined the matter quite well a few moments ago. What he said is consistent with the concerns of a number of environmentalists. Some fear that this agreement will mean the end of a virtual moratorium. The consequence of that could be a diversion of several billions of litres of water from around Chicago to the Mississippi. I think you have to be sensitive to that. Some even feel—I'm thinking of the Council of Canadians and Professor Schindler, who have a legal opinion—that there is a risk of loss of Canadian sovereignty, in addition to a risk that a significant amount of water will be diverted.

Do you have a legal opinion? Have your departments obtained assurances that there would be no loss of sovereignty? What have you done? Have you sought opinions from the Department of Justice? What arrangements have you made to avoid losing some measure of Canadian sovereignty?

[English]

**Mrs. Karen Brown:** Thank you.

Yes, we are consulting with the Department of Justice. We have asked for a legal opinion with respect to how these implementing agreements will fit with the Boundary Waters Treaty, with the International Boundary Waters Treaty Act, which is the Canadian law, and they are reviewing that as we speak.

We're working with the Department of Justice and JOL within Foreign Affairs, and those are the very questions they are seized of.

[Translation]

**Mr. Bernard Bigras:** Mr. Chair, first, would it be possible for the Deputy Minister to submit that legal opinion when she has obtained it? That would be desirable for committee members.

Second, have you assessed the potential impact on the St. Lawrence of a diversion that would lower water levels in the Great Lakes basin? Some environmentalists fear that such a diversion would lower water levels in the Great Lakes basin, and some working hypotheses suggest it would be a three-meter drop in water levels in the Great Lakes basin.

[English]

**Mrs. Karen Brown:** On the first question, we will certainly be happy to provide the draft comments when we have them. Obviously we are very much working with Justice and with all the program staff. We want to consult with Ontario and Quebec, as well as our U. S. counterparts, in providing comments to the Great Lakes governors and look forward to receiving the report of the committee as well so that we can make sure that's taken account of as we go forward.

On the second question, the International Joint Commission actually has a study in that regard, and I'll ask Jennifer to give a little bit more of that detail.

**Ms. Jennifer Moore:** The International Joint Commission does have a levels and flow study underway, looking at the St. Lawrence system. I believe this is being conducted in conjunction with our U. S. counterparts, and our very best experts are certainly engaged in this study. It's underway. I cannot tell you exactly when it will be completed, but I can certainly get back with that information to the committee.

**The Chair:** Mr. Simard.

[Translation]

**Mr. Christian Simard (Beauport—Limoilou, BQ):** A few years ago, I sat on an advisory committee to the International Joint Commission. The matter concerned a request made to the International Joint Commission concerning flood control and the very high levels in the Great Lakes experienced in the late 1980s. So it was necessary to manage the water in the basins better. There were projects with the U.S. Army Corps of Engineers. I remember that, as part of those studies, if only with regard to climate change, there were scenarios anticipating declines of up to 30% in the volume of water flowing into the St. Lawrence at the end of the basin and even catastrophic scenarios anticipating a 50% drop in 2025.

First, do we have a report on current water exchanges? We know that's being done. Without there necessarily being a basin diversion, water is currently being drawn from the Great Lakes. At what level is that water drawn? So I'd like to know where we're starting from. Second, I'd like to know whether there are any scenarios concerning the cumulative effects of the potential massive transfers in the Great Lakes and climate change.

• (0935)

[English]

**Mrs. Karen Brown:** We probably don't have all the information that you're seeking today, but we can certainly provide it. In addition, I think the International Joint Commission, when it appears—and I think it's appearing before the committee—can provide much of that information. The IJC is charged with those studies and as well is, as Jennifer just indicated, working on the flows issues, which is the current reference that they have.

Unless Peter has anything to add, we certainly would be able to provide additional information, but we don't have that information at our fingertips at the moment.

**The Chair:** The IJC is scheduled for next Tuesday. They will be coming in.

Sorry. Mr. Fawcett.

**Mr. Peter Fawcett:** Thank you, Mr. Chairman. That's exactly what I was going to say. That's one of the issues they are going to testify on.

Much of this information in fact has been generated by the IJC in its reports, including your question about the current level of diversions out of the Great Lakes. The study that was mentioned previously, studying the levels and flows of Lake Ontario and the St. Lawrence system, which we hope will be finished within the next year, will provide additional information.

But I think your question also goes to another important matter, and that is the need for greater water management in the Great Lakes Basin. Absolutely, there is very much a need for better information about current uses, about what the cumulative impacts will be. We need the information and scientific research to be able to make those determinations and a better management regime in the overall basin as called for by a number of international organizations such as the IJC and the Great Lakes Commission.

[Translation]

**Mr. Christian Simard:** Even if, in a potential agreement between the eight states, Ontario and Quebec, the parties undertook to comply with the treaties and acts, wouldn't such an agreement be a bit of a Trojan horse, that is to say a first step, for the U.S. states, in the pressure they would exert to have the U.S. federal statute amended.

On our side, would Ontario, Quebec or the federal government have a line of attack against this kind of thing? We could undertake to comply with the treaty, but pact members could subsequently work to have the federal act amended because there would be enormous pressure to do so. We know there are more than 40 million inhabitants—these are old figures—around the Great Lakes basin, and four or five million along the St. Lawrence, which is something of an exhaust pipe in environmental terms. In Quebec, we are affected by all the decisions made by a basin that exercises enormous pressure, not to mention that of the American Midwest.

Would it be possible for us to have a transfer at the second stage, where there might be a desire to amend the American legislation as a result of extremely heavy public pressure?

[English]

**Mrs. Karen Brown:** The issues you are identifying in fact are the ones that the Council of GreatLakes Governors is seized of. There is no doubt that the numbers of people who live in the Great Lakes Basin is very large and the number of people who rely very much on that ecosystem is in fact growing, in particular communities that are outside of what we would traditionally call the basin, and there is quite a bit of demand in that regard.



The short answer to the question is that, first of all, the agreements referred to, and the agreement that the provinces of Ontario and Quebec are party to, are in fact non-binding. Secondly, notwithstanding that the International Boundary Waters Treaty Act, the Canadian implementing legislation, which in fact prohibits the outer basin transfer, would still prevail. That's the dilemma we're faced with, how we actually work with the Council of Great Lakes Governors to ensure that whatever they are proposing is consistent with that treaty. I think Minister Dion, in response to a question in the House yesterday, indicated very clearly that we have no intention of changing that legislation nor the regime we have in place. That is our very strong and firm commitment in this regard.

• (0940)

**The Chair:** Thank you.

I'll go to the other side. Mr. Wilfert, then Mr. Scarpaleggia, for ten minutes.

**Hon. Bryon Wilfert (Richmond Hill, Lib.):** Thank you, Mr. Chairman.

First of all, there are some who have said that Canada has played a very passive role in all of these discussions and in fact we've really been detached. Could you comment on that?

**Mrs. Karen Brown:** The Government of Canada is not a member of the Council of Great Lakes Governors, as probably members well know, and therefore is not at the negotiating table, nor is it a part of the working groups. Until the agreements were actually released for public comment in July, we actually had not seen them.

We are now engaged in a process with our colleagues federally, but also with Ontario and Quebec. It is our hope that we will be able to provide comments to the council in late November of this year.

**Hon. Bryon Wilfert:** I assume, Mr. Chairman, that one of the major principles must be that we do not want any bypassing of the International Boundary Waters Treaty, period, end of discussion.

Concerns have been raised that the compact could in fact affect the powers of the treaty, and in fact maybe even the powers of the IJC. Are you able to comment on that?

**Mr. William Crosbie:** I'd refer to the comment submitted by the U.S. State Department.

In particular, what they have asked is that the compact have the language as follows:

Nothing in this Compact is intended to be inconsistent with other federal or international law. In particular, nothing in this Compact is intended to be inconsistent with the 1909 Treaty Relating to Boundary Waters and Questions Arising Along the Boundary Between Canada and the United States.... To the extent that any provisions herein are found to be inconsistent with that Treaty or other federal international law, the Treaty or law shall supersede the affected provision. In addition, the requirements herein relating to new and increased diversions, withdrawals, and consumptive uses shall be in addition to those requirements found in the Treaty.

**Hon. Bryon Wilfert:** Mr. Chairman, given that these comments were made, you said, last week...?

**The Chair:** Yes.

**Hon. Bryon Wilfert:** I presume we haven't heard any reaction yet from the United States.

**Mrs. Karen Brown:** Not to my knowledge. No.

**Hon. Bryon Wilfert:** The U.S. State Department has made very clear their position. You indicated that once the process is finished, we will make ours known very clearly. I think one of the things we want to know is that the line in the sand is going to be very clear as to where we stand, both to the governments of Ontario and Quebec and obviously to the governors.

I think the fear is that if in fact changes were made that would require, or would force to any degree, the governments of Ontario and Quebec to enact legislation that in fact would change the standards, then we might see some form of withdrawals of water, which in fact is not in the national interest of this country. Obviously, I can't make it any clearer that the national interest of Canada must prevail, regardless of what others may be engaged in.

I would trust that in our consultations and in our discussions with the other parties, we don't want to go down the road too far here without making that known, because as you have indicated, these discussions continue into next year, with presumably some enactment by the end of next year.

I want to emphasize again, Mr. Chairman, as the minister indicated yesterday, that our position on bulk water is very clear, period: we do not want to see any changes that could in any way be interpreted, we don't want any legal loopholes. American law is very complicated. I understand the implications, but I want to make it clear that this government has to be very strong on that, and certainly with our provincial counterparts.

**The Chair:** Thank you.

Mr. Fawcett, I think the committee would also like the reference that you cited just a few minutes ago. It would be appreciated if you could make copies of that available to committee.

Mr. Scarpaleggia.

**Mr. Francis Scarpaleggia (Lac-Saint-Louis, Lib.):** Thank you, Mr. Chair.

I think the Canadian public is frustrated about this issue. It's very complex, no doubt, and every time we think we have a grasp on it—and excuse the analogy—it's like water running through our fingers in a way. We finished telling Canadians about a year ago that we have the International Boundary Waters Treaty Act and that's it; that's the line in the sand. Then they wake up a little while later and we're talking about a complex agreement among the states and the provinces, and the federal government overlooking it but it's not really involved, and so on. So I think the concerns are justified on a certain level.

But my question and comments focus on measurement and enforcement. There's this myth that science is objective and science reaches the truth and all good scientists will come to an agreement on what is true and factual, but it's my understanding that when we talk about Great Lakes water levels, they're affected by natural factors. I've been told, and I don't know if this is correct, that the current low level of the ecosystem is probably caused by natural factors.

My understanding is that the annex agreement, if I understand you correctly, says that water taken out must be put back in by the states. What if there's disagreement on whether this is being done? Suppose American scientists, Canadian scientists, provincial scientists and federal scientists all start arguing and, let's say, it becomes a messy problem and there's fear on the federal government's side that this agreement is not being lived up to and that there's a need to act. Take me through the process, step by step. How would the federal government go about enforcing its view of the International Boundary Waters Treaty Act in such a confusing situation? What are the steps? What would the federal government do? If it said, okay, Ontario and Quebec, I don't think you're living up to the spirit; we're not happy with this; we disagree with the American scientists... what happens?

● (0945)

**Mr. Peter Fawcett:** Perhaps I may start with an informal comment related to your first. We, too, are somewhat frustrated by this current proposal because of its lack of precision and its lack of basis on sound science, as you mentioned. Absolutely, that's one of our fundamental principles that we will provide in our comments back to the council, that there has to be science-based decision-making here.

One of the reasons, I'm told by Ontario and Quebec, the language is such as it is that there was a need to go public with what the state of the negotiations were at that time. They had a mandate to negotiate this agreement within three years. They were beyond that and, clearly, the public wanted to know what was being considered. So we have a kind of proposal that's really not finished. There's language there that needs to be tightened up. There's a lot of misunderstanding and misinterpretation in terms of what we see before us. So I certainly share your concern about the lack of precision.

Now, to go to the specifics of your question, if we were not satisfied with what was going on in this process, and assuming that Quebec and Ontario were similarly frustrated, that it was leading to an unacceptable result and influencing or affecting the U.S. obligations under the treaty, then we would seek consultation with the U.S. government. If that did not result in an acceptable outcome, then we would likely refer the issue to the International Joint Commission and seek independent advice that would be based on science.

I think that's what we would look to. The IJC would then come back to us with this independent advice and we would try to resolve the matter that way.

Again, I can't really comment on the process within the ambit of this agreement because, as was mentioned earlier, this is an agreement between the states and the provinces.

**Mr. Francis Scarpaleggia:** As a follow-up question, this is a sincere request for information. What if the IJC is split, and what if the Province of Quebec and the Province of Ontario disagree with the federal government on this?

You said in your comments, assuming we have concerns and the provinces have similar concerns. What if they don't have similar concerns, and what if the IJC is split? What happens next? What's

the next step? How is the issue resolved? What are the mechanics of resolving this issue? As I said, this is a sincere quest for information.

● (0950)

**Mr. Peter Fawcett:** I should underline the fact that the federal government is a party to the Boundary Waters Treaty, so we are, at the end of the day, ultimately responsible. But we have had very close cooperation and dialogue with Ontario and Quebec throughout the development of this process and we would hope that dialogue, that close cooperation with the provinces, would continue.

**The Chair:** Mr. Scarpaleggia, I have to interrupt now and go to Mr. Comartin.

I would remind you that Mr. Gray is here and we will have the IJC and you can explore that line of questioning further with him.

Mr. Comartin.

**Mr. Joe Comartin (Windsor—Tecumseh, NDP):** Thank you, Mr. Chair.

Let me start off with a statement, which is that in spite of what we went through in the last Parliament around the act to strengthen any possibility of diversions or bulk export, the reality is that the minister does have the discretion to license under that act. So we don't have an absolute prohibition.

I appreciate Mr. Wilfert's comments, though, about the position the government appears to be taking, that that discretion will not be exercised. I want to pursue this line of questioning.

I'm not sure, Mr. Fawcett or Mr. Crosbie, who I should be asking this of the two of you, but when did it become known that the Great Lakes governors were considering building the second agreement in the form of a compact? When did that become known to the federal government, on this side or the U.S. side? Was it only this July, or was it earlier?

**Mr. Peter Fawcett:** Let me see if I can address your two questions, because it's—

**Mr. Joe Comartin:** The first one wasn't a question, Mr. Fawcett, it was a statement. I don't need a response to that. I only need a response to the second, when did we become aware about that?

**Mr. Peter Fawcett:** Yes. When Congress delegated authority under WRDA, the Water Resources Development Act, to the Great Lakes states, it was intended at that time that the eight Great Lakes states would come back to Congress with a proposal in the form of a compact. That is how.... As I understand it, under U.S. law the states make a binding arrangement. It is then referred back to Congress. So I think when it was delegated to the Great Lakes states in, I believe, 1999 or 2000, it was clear at that point that a compact was intended that would then come back to Congress for approval.

**Mr. Joe Comartin:** Was it understood at that time that the Council of State Governors would be set up to make decisions on the issue of diversions? Or did that only become apparent more recently?

**Mr. Peter Fawcett:** I'm not sure I have a good answer to that question. It was delegated to the Council of Great Lakes Governors, which includes Ontario and Quebec, to develop a water management regime. That is what the charge from Congress was. So I guess you can interpret from that that there was going to be some decisions about water management made within the auspices of that group.

**Mr. Joe Comartin:** But it could have also been that the decision-making body or the recommending body would have been the International Joint Commission, because that was already established and already mandated to take on that responsibility. It didn't have to be a state governors body.

**Mr. Peter Fawcett:** I think the compact would have to be among the eight Great Lakes states. But maybe I can answer it in another way.

There is a need, as I said earlier, for water management in the Great Lakes Basin. Water management is conducted by the states and by the provinces. They're the ones to issue permits, collect data and are hands-on. We're not involved in water management. That's a resource management issue in the hands of provinces and states.

Now, I should say there is quite a variety of measures put in place on the U.S. side to conduct this water management. The idea was that there would be common standards, rather than this hodge-podge of different measures in different states, so that we could have comparable data and would have a better assessment of what is in fact going on in the basin. That was the intent, I think, of the charge to develop these standards for water management.

● (0955)

**Mr. Joe Comartin:** The difficulty I'm having with this is the same difficulty I've had since I first saw the agreement sometime in August. I may just be wearing too much of a lawyer's hat here, but I see an inevitable conflict coming between this council and the IJC. It seems to me so obvious, especially when you get into the details and see how permissive the standards are under the compact and the agreement. I don't see anybody with a legal background—and again, maybe you do have to have a legal background—who wouldn't see that an inevitable conflict is coming.

The IJC has its standards, which clearly are stronger. They're basically in a moratorium position in terms of any diversions at all until we get better scientific bases. On the other hand, you have a very permissive...you know, the last question you had.

I mean, the reality is that there are all sorts of provisions in here where the council doesn't even look at diversion. There's a great deal of water that can be taken out of the basin that doesn't require any, especially when you get into the consumption use side of it. So I just don't understand how we got to this stage.

I have to say to you, I asked this question of the MNR people when they were in Windsor, and I didn't get any kind of a satisfactory answer. Somebody had to see this coming.

**Mr. William Crosbie:** The question of consistency is something that both federal governments are charged with ensuring. I think the comments submitted by the U.S. State Department are intended to clarify the supremacy of the Boundary Waters Treaty obligations.

**Mr. Joe Comartin:** Mr. Crosbie, that doesn't answer it. If they go with that statement and continue on, how does that resolve the issue

between the conflict we're inevitably going to have between the IJC and the council?

**Mr. William Crosbie:** I wouldn't venture to say that there is an inevitable conflict. One of the intentions of our comments is to help the parties find a way to ensure that all of them can function with their appropriate roles and responsibilities. As Peter has already said, the states and provinces do have a responsibility for water management. They're attempting through these agreements to find ways to better manage their own responsibilities in a coordinated fashion. We as a federal government, working with the U.S. federal government, want to ensure that this level of cooperation is consistent with our international obligations.

**Mr. Joe Comartin:** Mr. Crosbie, I'd agree with you if we were only talking about water that's staying within the basin. As soon as you empower that council to make decisions—and I don't see them backing off on that—about diverting water outside the basin, then you're moving inevitably to a conflict with the IJC.

Let me just be very clear: I agree, the states and the provinces badly need to do more management; I have no problem with that. I live with the polluted water all the time, so I know, and I'm quite conscious of the need for them to do that. That's not my problem. My problem is the diversion outside the basin and why they have any authority in that. Why they're allowed to have any authority in that I do not understand.

**Mr. Peter Fawcett:** Perhaps I can make one comment on the last element there. Not only are the obligations under the Boundary Waters Treaty unaffected by the proposed implementing agreements, but U.S. obligations and our obligations under the Great Lakes Water Quality Agreement remain as well.

**The Chair:** Mr. Comartin, one minute.

**Mr. Joe Comartin:** That's not an answer, Mr. Fawcett, on what happens.

Thank you, Mr. Chair.

**The Chair:** Perhaps we can go back to this side, and Mr. Carrie.

**Mr. Colin Carrie (Oshawa, CPC):** First of all, I'd like to say that I'm very pleased you're here.

I like the way the questioning is going. My biggest concern is that I find myself agreeing with the NDP and the Bloc. I'm wondering, Mr. Chairman, if you put something in this water.

Coming from the constituency of Oshawa, which is on the Great Lakes, I see that everything in our community—social, economic, and recreation—has to do with the water. I see water as bringing life. As a younger person, I thought we had an endless supply of it. I see now, with our challenges with population growth, that our water tables are down. I see it as something we as politicians need to address over the next 20 or 30 years, to manage better. If we don't...

To take a history lesson, I believe you may have heard of the Aral Sea in Russia, where there was a huge diversion of water. Within 20 or 30 years they took a vibrant area that sustained thousands of people and turned it into almost a barren desert. I see this as one of the biggest issues we're going to be facing as politicians over the next few years. I see that we need to start balancing things and looking at this over those next few years.

My question for you, and it may be a difficult question, is why really are we doing this now? It seems we had an agreement we were pretty happy with. Who are we getting the pressure from to change this, to open this up a little bit? Is it governments, federal or provincial, or are we finding pressure from corporations for utilization of the water? Why now? Why are we opening this up?

• (1000)

**Mrs. Karen Brown:** I think this stems from, in the first instance, the fact that the U.S. Congress did delegate to the U.S. states the responsibility to actually try to figure out the management regime under the Water Resources Development Act. As I think Peter and others indicated earlier, there is a great need for them to harmonize standards and try to come to some agreement where they share, obviously, quite a bit of water. So you're talking about a fairly recent development.

I can't answer, and I don't think anybody can, why the U.S. Congress decided to take the route they did in terms of the way they structured their legislation and the request they've made to their states. Perhaps the positive development in that regard was the decision on the part of Ontario and Quebec to join that dialogue. They very much wanted to be assured that the standard that developed they could in fact live with. Their objectives, I think clearly stated, have been to make sure that standard is at the highest level with regard to their interests along the Great Lakes and St. Lawrence River.

In that regard, I think it's impossible for us to answer why the U.S. has taken the route it has, but clearly we are engaged, collectively with the provinces, to make sure that we are consistent and that we maintain the highest standards with respect to those Great Lakes.

**Mr. Colin Carrie:** Okay.

My next question also has to do with a history lesson. Living on the Great Lakes, I know that Lake Huron has dropped significantly over the last 20 years. Are we looking at why this has occurred? What happened, and what effect has it had so far?

**Mrs. Karen Brown:** Again, that's very much part of the study going on right now on levels and flows in the Great Lakes, which the IJC is undertaking. A lot of work is going on to try to determine the balance and the flow within the Great Lakes. So it is under study at the moment.

**Mr. Colin Carrie:** Do we know which ones are dropping? Are all of them dropping? Are some of them actually rising, or...?

**Mrs. Karen Brown:** I don't know that amount of detail. Again, I think the IJC could answer that question next week.

**Mr. Colin Carrie:** Okay.

Are we working with different agencies to start aggressively working on conservation throughout this whole process?

**Mrs. Karen Brown:** Yes, we are. We work very closely through the Canadian Council of Ministers of the Environment. We are now working on some very broad programs to deal with some of these conservation issues. Likewise, within the Great Lakes we've had for a number of years the Great Lakes action plan, and an equivalent for the St. Lawrence River, to deal with joint issues of responsibility, such as water quality, water quantity, and conservation.

**Mr. Colin Carrie:** What about in regard to such things as damming? Are we working with industry or with agencies in terms of hydroelectricity, new projects, or things along those lines?

**Mrs. Karen Brown:** Yes. To the extent that there are any new proposals being put on the table, the federal government would work very closely with the proponents and with others to do an environmental assessment if there was a federal responsibility involved in the project.

**Mr. Colin Carrie:** Thank you.

**The Chair:** Mr. McGuinty and then Mr. Simard.

**Mr. David McGuinty (Ottawa South, Lib.):** Thank you, Mr. Chairman.

Thank you for appearing this morning. I wanted to begin by sharing some of comfort I feel in hearing the extent to which you are collectively seized with this issue and in hearing some of the comments made by my colleague Mr. Wilfert.

I want to look at this as a lawyer. I've read both agreements twice now, and I'm just trying to put a couple of questions to you on how some of these agreements hit me in the first and second reading, which I hope you can put to others who are reviewing these—perhaps at Justice.

First of all, both the compact and the agreement acknowledge in their preambular sections that nothing in either of these agreements would supercede or run counter to the Boundary Waters Treaty of 1909—and effectively, I think they go as far as saying in the agreement, pretty well every other international treaty that's relevant and in play here. That is a preambular statement, and I don't know if it means that this compact and the agreement are bound. It leaves me to ask the question, which I'd like to see addressed, if you're having a legal opinion done. Are the compact and the agreement effectively trying to contract out of treaty provisions in the Boundary Waters Treaty of 1909, for example? So that's a question I had to put to you.

The second thing that struck me was the additional provisions in article 10, under the compact, that speak about cumulative impacts. I don't know how far advanced the science of cumulative impacts is, particularly in large freshwater bodies. It's certainly not very far advanced when we look at terrestrial cumulative impacts. The science is not well defined, in my experience. I certainly would like to ask a question or have a question answered. What does this purport to mean? They've defined it in very broad and loose terms; it's not an easy area for sure, but I would like some better indication of what this means. They're going to be doing "a periodic assessment of the Cumulative Impacts of Withdrawals, Diversions and Consumptive Uses...every 5 years or each time the...[basin water] losses...reach 50,000,000 gallons per day", and so on and so forth. That's in article 10 in the compact.

The other thing that struck me was in chapter 7 of the agreement, "Final Provisions", articles 701, 702, 703, for example. There's a very clear reaffirmation of constitutional powers and responsibilities of both the federal Government of Canada and the United States. So again, I'm trying to jive some of the comments, put forward by colleagues, that we have legal opinions saying this is effectively a loss of sovereignty. I can't see it. I'm looking for it; I'm looking for it desperately.

The last question I want to put to you is, how does this, or does it at all, jive with the Province of Ontario's new approach to water pricing? The Province of Ontario is looking now, for example, at abstraction and licensing costs when it comes to bottled water, and it is bringing in new measures, which I think is going to show the Province of Ontario quite quickly that it probably does not have the hydrogeology it needs to make some hard choices and decisions.

Those are some of my questions for you.

• (1005)

**Mrs. Karen Brown:** Thank you. We'll pass on those questions to the Department of Justice.

With respect to the cumulative effects, let me just say that we certainly agree that any attempts to try to improve information in the science base with respect to cumulative effects would be something that we would be supportive of. That is a very challenging area, particularly when you're dealing with both water quality and quantity issues. The Great Lakes Basin is under stress from invasive alien species amongst a whole host of different toxic chemicals. So there's a very important piece of work that we would certainly want to encourage to continue and work collaboratively on both sides of the border.

We'll pass these questions on.

**The Chair:** Okay.

Monsieur Simard.

[Translation]

**Mr. Christian Simard:** This is a very complex question. I get the impression, and I wonder whether my impression is accurate, that everything turns on the standards set out in the agreement and on unanimity, or the lack thereof, within the Council of Governors. According to some interpretations, the Great Lakes governors have a legal opinion stating that it is impossible to distinguish transfers within the basin from out-of-basin transfers because the water is

commercialized. That's one way of circumventing the preamble or the element that states that we have to comply with all the treaties.

So there's this potential leak and the impossibility of distinguishing between in-basin and out-of-basin transfers. From the moment Great Lakes water is bottled, we can't know where it goes, where it's marketed. Even in the event of strong opposition to the provisions by Ontario and Quebec, would it be possible that the agreement between the eight U.S. states around the Great Lakes alone would be enough for these vague standards to be applied unilaterally and for this diversion, which is not called that but in fact is that, of water from the Great Lakes to be done somewhat secretly?

• (1010)

[English]

**Mrs. Karen Brown:** I think this is a confusing matter and it isn't all that clear. As we stated earlier, one of the reasons for the early release of these agreements is that they are very complex, and it is very important to have public input and get some views with respect to the standards. Clearly, as we work through this, we need to see how it all interrelates, and that's part of the challenge both for the Council of Great Lakes Governors and Canada and the U.S.

It's fair to say that both the Province of Quebec and the Province of Ontario have also clearly indicated their strong position against the prohibition on out-of-basin transfers. So I think we're all on the same page in that regard. The challenge, as I indicated earlier, is to work within this agreement at this stage to make sure the standards are of the highest consistency and the highest level that meet Canadian needs as well as the U.S. needs, and then through this process of consultation and public input to comment further to try to bring some consistency through that piece.

It's very difficult to answer hypothetical questions, because these are very much drafts. We expect them to change, frankly, on the basis of very expensive consultation. That work is going to start, or at least they will be reviewing public comments, in the November-December time period. So we're fully expecting these agreements to look quite different once they're published again.

**The Chair:** Members of the committee, I'm taking speakers now as they catch my eye, so there is no particular order.

Mr. Comartin, and then Mr. Watson.

**Mr. Joe Comartin:** Mr. Crosbie or Mr. Fawcett, I understand that the attorney general of Michigan has filed a letter opposing diversions—I don't know in how much detail, as I haven't seen the letter. I wonder if you can tell us from your contacts on the U.S. side if there are other states that are signalling, in some fashion or other, discomfort with the agreements at either the gubernatorial level or some other level.

**Mr. Peter Fawcett:** As you know we have five consulates in the Great Lakes region. The consulates are reporting on the public consultations that the states and the Council of Great Lakes Governors have undertaken.

You're absolutely right, the attorney general of Michigan has made a very strong statement opposing diversions. Michigan is very much opposed to diversions because the entire state is within the Great Lakes Basin. So we know their position, but we've not seen much in the way of reaction from states other than Michigan. I guess they are finishing their consultation process, and as I understand it, as the Council of Great Lakes Governors resumes its meeting in mid-November, they will report on the consultations they've had and the public input. There is an advisory committee that will also hear the results of those consultations, so perhaps at that time we may see further reaction from the U.S. side.

**Mr. Joe Comartin:** Do you have a copy of the letter from the attorney general of Michigan?

**Mr. Peter Fawcett:** I believe we do, yes.

**Mr. Joe Comartin:** Could you provide a copy to the committee, please?

**Mr. Peter Fawcett:** I'd be happy to do that.

**Mr. Joe Comartin:** This question is for both of you. Both ministers have indicated there is a willingness on the part of the governors and provinces to not hold the federal government to the October 18 deadline. Do we have something solid on that? It sounds as though you're not going to get a response to them at least until late November. Are they going to wait for that? Do we have a confirmation on that?

• (1015)

**Mr. Peter Fawcett:** We've indicated to the Council of Great Lakes Governors in Chicago that we are awaiting input on the Canadian side and that we intend to submit comments. They have reacted as they have on a number of occasions: they will take our input; they look forward to it.

I should say also for the members of the committee that I've made a presentation, in fact twice, to the council about our implementing legislation—the amendments we made to the International Boundary Waters Treaty Act—so they're very much aware of what the federal government is doing and are anticipating a response from us.

**Mr. Joe Comartin:** Is there any indication they're going to extend the consultation period for anybody else, such as the environmentalists?

**Mr. Peter Fawcett:** Not to my knowledge.

**Mr. Joe Comartin:** Thank you.

Mr. Watson.

**Mr. Jeff Watson:** I want to pick up on a couple of other lines of questioning from a couple of my distinguished colleagues on the panel who really started on the right track.

The fallback position always comes back to the International Boundary Waters Treaty Act, which of course, by virtue of article 3, makes the IJC the ultimate arbiter. I want to probe your understanding of the role of the IJC a little. Because of that article 3, I guess the question would become: will the IJC be involved in approving water diversions under the Annex 2001 implementation agreements?

**Mr. Peter Fawcett:** The IJC is charged with approving any project that affects levels of flows. I guess the short answer to your

question is that if a project affects levels and flows, then it requires the approval of the IJC.

I would also say the IJC has provided to us some comprehensive advice in its 2000 report called *Protection of the Waters of the Great Lakes* and in its subsequent three-year review in August 2004. In particular, it is important to recognize that recommendation number one is on this very matter. It says that: the federal governments..., the governments of the Great Lakes states and Ontario and Quebec should not permit any proposal for removal of water from the Great Lakes Basin to proceed unless the proponent can demonstrate that the removal would not endanger the integrity of the ecosystem of the Great Lakes Basin....

You will see, based on that recommendation, that there is a very strict review and approval process within the IJC.

**Mr. Jeff Watson:** Picking up, in terms of understanding the compact, on Mr. Comartin's question about the Michigan government being against new large-scale diversions, does it mean no new large-scale water diversions would happen—if this compact were approved, I should say, because it's not approved yet? Were it in place, it would effectively mean no new large-scale water diversions, is that correct?

**Mr. Peter Fawcett:** As we indicated earlier, the compact on the U.S. side requires all of the eight Great Lakes states to approve it by implementing legislation, and then approval by the U.S. Congress. That will take considerable time. So the answer to your question, as it applies to these implementing agreements, is that it would require approval of all of the states.

**Mr. Jeff Watson:** Are Great Lakes water levels dropping right now, to the best of your knowledge?

**Mr. Peter Fawcett:** As I indicated earlier, the IJC would be the best body to try to address that question. To go back to your colleague's earlier question about Georgian Bay in particular, we are very concerned about dropping levels in Georgian Bay. The IJC will give that considerable review to try to determine what the causes are. It's an entire system of lakes. They are interrelated, and it's very complicated. There are natural variabilities in the levels over time. Then there's the impact of climate change, which the experts tell us will have an impact on levels. That's something we're very concerned about.

**The Chair:** Mr. Simard, then Mr. Carrie.

• (1020)

[Translation]

**Mr. Christian Simard:** The briefing notes from the Library of Parliament refer to the position of Great Lakes United. Great Lakes United is an umbrella organization representing a large number of NGOs in the Great Lakes region. I would like to know whether this is the position of the entire group or part of Great Lakes United, which seems to be saying that an imperfect agreement is better than the present state of anarchy.

I would like your comments on this aspect. If such a large group of NGOs supports the principle of the agreement, even if it promotes higher standards, that won't necessarily serve the interests of Quebec and Ontario or promote the preservation of the waters of the Great Lakes.

[English]

**Mr. Peter Fawcett:** I'll try a brief response to your question.

Great Lakes United is in fact a binational grouping of NGOs on both sides. They have been a member of the advisory committee and have been following this process very closely.

I think we all share the view that, as I said earlier, this is an imperfect proposal. We're not satisfied with the language, and we're not satisfied with a number of elements of what is being proposed, hence the need for the Canadian government to submit its views to the council.

**The Chair:** Mr. Carrie.

**Mr. Colin Carrie:** I'm aware there are real, legitimate concerns about any diversion, but there's also what I would say is more like a fear, a paranoia. We don't want to over-exaggerate anything.

But to get back to my colleague's question about diversion projects, are you aware of any proposed or planned diversion projects that certain American states may be thinking about right now?

**Mr. Peter Fawcett:** Not really. I'm sorry, I can't answer your question...or maybe in a more general sense, if it's helpful.

Unlike Canada, the United States has quite a history of water diversions, and there are certainly proposals and projects under consideration at any point in time. We're not aware of any that are specifically being considered that would impact on levels and flows in the Great Lakes. But this maybe goes to the earlier point about the need for better information and better coordination between the states and Ontario and Quebec, and greater transparency in all of this, so that proposals come out and are on the table and are reviewed.

**Mr. Colin Carrie:** I'm more concerned about different agendas that are out there. One I heard about a few years ago concerned diverting Lake Superior down the Mississippi. I don't know how serious it was, but I would see that as a huge concern for Canadians. And just the way the agreement reads—you stated that the Great Lakes states' approval is needed—what if there's something coming up like that and Canada says no? I'm wondering whether we're going to be in a position just to say no.

**Mr. Peter Fawcett:** Let me give you a very specific example. When NOVA Corporation in 1998 was given approval for a permit to remove water out of Lake Superior—by Ontario, unfortunately—this was, if you'll forgive the term, a watershed issue that really brought the attention of Canadians and Americans to the need for greater protection in the waters of the Great Lakes.

Ontario amended its legislation, and we amended our legislation, to prohibit bulk water removals. So we have a very comprehensive regime in Canada against prohibition.

Let me make just one small point on this, because it's not clear from reading the agreements. Article 200 of the agreement says individual members can take more restrictive measures, so Ontario and Quebec are permitted under the agreement to maintain their prohibition on removals, and that's very important. They stated publicly that they intend to maintain that prohibition, as we have in Canada.

But to get back to NOVA, that was what the reaction in Canada was. In the United States, the loudest and the longest screams of protest were from the eight Great Lakes states. The eight Great Lake states in a larger context have the same interest as Ontario, Quebec, and Canada to maintain the integrity of the Great Lakes. That was also the reason the U.S. Congress delegated authority under WRDA to those Great Lake states; they realized that those who manage the water in the basin are critical to maintaining its integrity and the level of protection we all want.

• (1025)

**Mr. Colin Carrie:** I think that's really important to note. I think we're all in agreement as this process goes through that it's important we maintain that ability to say no. This is something that is the lifeblood of our whole country.

Thank you very much.

**The Chair:** Mr. Cullen and then Mr. Watson.

**Mr. Nathan Cullen (Skeena—Bulkley Valley, NDP):** Two questions. First, what I've been hearing from the province, particularly Ontario, is that the federal government's involvement in the discussions has been too distanced, more in the observer status sort of way. From your perceptions, particularly in the foreign affairs department, do you feel we've been involved enough integrally in the process in these decisions that are coming forward?

Second, while I hear the prohibition that you're talking about, essentially it sounds like a veto power that the provinces have if the Great Lakes are to propose mass exports. I want to understand that clearly. Is there something very explicit in the agreement saying if, for whatever reason all the states start to line up...? Clearly the pressures on water are going to increase over the coming decades. I'm not necessarily as worried about September as I am about 15 to 25 years from now, as the states dry out further and further. I would hate to foresee some eventuality where the states do line up and start to feel like exports make sense, for whatever their reasons. I want to have complete assurance that the veto power stays.

I come from British Columbia, and we had an experience where an American firm tried to export bulk water and it was prohibited by the province, then it sued under NAFTA—successfully, I believe, and I could stand corrected on that. I wonder what your opinions might be on an eventual process like that, where some company comes forward with some measure of state or congressional approval and Ontario or Quebec deny that application, and then we're under litigation.

**Mr. William Crosbie:** Of course, the question of denial comes under the Boundary Waters Treaty. The Boundary Waters Treaty applies to any change in flow or level of water. It has to be approved by the IJC. So any of these agreements cannot alter that obligation. It's not up to the provinces to determine that; it's under the Boundary Waters Treaty itself and under the IJC.

Peter, did you want to comment on some of the other issues you raised?

**Mr. Peter Fawcett:** We have been consulting with Ontario and Quebec in the development of this. Before you arrived, I believe, I mentioned that we did presentations on the federal legislation, and the council is very interested in how we chose to implement our obligations under the Boundary Waters Treaty, which is the amendments to the International Boundary Waters Treaty Act. And we have taken the most restrictive measure by putting an absolute prohibition in place.

In addition—and this is not something that is focused on very much in the legislation—we also have a licensing regime for in-basin use. The Minister of Foreign Affairs licenses projects within the basin if they affect levels and flows. So we have a very tight control, I would say, in both the prohibition and the licensing for in-basin use in Canada. I think we consulted with Ontario during the development of them. Our regulations are very similar to Ontario's, and certainly we want to maintain that same high level of control.

I do want to briefly touch upon the Sun Belt case that I think you're referring to in British Columbia. There was a filing under NAFTA chapter 11. That case in four years now has not gone anywhere. It's dormant as far as I understand.

**Mr. Nathan Cullen:** Thank you.

**The Chair:** Mr. Watson, and then Mr. Jean.

**Mr. Jeff Watson:** Mr. Fawcett, your comments actually raise another question in my mind here. I'm going back to previous comments.

You talked about the strong legislation we have in place, that individual parties—and I'm presuming that's Ontario and Quebec—can maintain their bulk water bans. The discrepancy, or at least an apparent discrepancy, arises here, and you can clarify whether there actually is one.

The provinces are required to make legislative and regulatory changes or other changes in order to give force to this agreement. This agreement also provides for out-of-basin transfers. Can you really maintain a bulk water ban and yet have to give force to this agreement that allows for those types of transfers? Perhaps you can tell me (a) whether there is a discrepancy there, what types of changes; and (b) what types of changes, if there is no discrepancy, have to be made in order to give that agreement force?

• (1030)

**Mr. Peter Fawcett:** Well, we're certainly looking at this carefully. As I mentioned earlier in my remarks, article 200 allows both Ontario and Quebec to maintain the prohibitions that they have in place right now. They have stated publicly that those would remain.

**Mr. Jeff Watson:** So you're saying there's no discrepancy, then.

**Mr. Peter Fawcett:** Well, we're going to be looking very carefully at that to ensure there is no discrepancy.

**The Chair:** Can we think about that?

**Mr. Jeff Watson:** Yes, let me just think about something here for a second.

**Mr. Brian Jean (Fort McMurray—Athabasca, CPC):** Mr. Chairman, my question really deals with the long-term aspects of water, generally, in Canada and our relationship with our southern neighbour. Under NAFTA I understand water currently is not

considered a commodity, and my question really relates to the future of our relationship and the necessity of midwestern states to have more water because of drought, etc.

Are there long-term threats relating to NAFTA and the current description of water? I understand it's not a commodity, or it is not going to be traded as a commodity, but it is indeed traded now through bottled water, etc. Is there some sort of long-term threat relating to general water in Canada, not just to the Great Lakes itself?

**Mr. Peter Fawcett:** It's hard to answer questions that relate to long-term impacts, but let me try a couple of things.

First of all, there is quite a controversy surrounding this so-called commodification of water, but I think certainly the best legal opinions that we have were incorporated in our amendments to the International Boundary Waters Treaty Act to treat water as a resource. As long as you manage water as a resource, it's not a commodity. Once you go down the road of bottling it or something like that, then it is a commodity and it is subject to our international trade obligations. So I think we have taken the right approach to manage water in its basin, to manage it as a resource.

There have been a number of projects, and we're always concerned, when these come about, to look at long-range diversion of water. If water does become short in supply, those ideas will probably come back. I look at the recent decisions on a number of projects. It's very expensive to move water long distances. A cubic metre of water weighs a metric tonne, so you either need a very large infrastructure project or have a very cheap source of transportation to be able to move that volume of water. But who knows? The economics may change, and certainly we need to be ever vigilant that we protect and conserve our water resources.

**Mr. William Crosbie:** Let me clarify. We do not see NAFTA as posing any threat to our ability to regulate Canadian water and water in its natural state, and bulk water. We do not see it as in any way imposing some obligation on Canada now or down the road that would cause a conflict between our appropriate use and regulation of water resources.

**Mr. Brian Jean:** Thank you.

**The Chair:** Thank you, Mr. Jean.

Ms. Ratansi.

**Ms. Yasmin Ratansi (Don Valley East, Lib.):** Thank you for being here.

I know with the discussions that have been going around, my head is spinning and of course now that we have seen the movie *H<sup>2</sup>O*, it's spinning even more. It raises concerns and certain fears about whether this is reality. Water is such an important commodity. We've had it for so long.



There are complex issues around this agreement. Is there a perception that the compact is bypassing the Boundary Waters Treaty? If so, what is our recourse? Where are the teeth in the agreement that will keep the feet of all the parties to the agreement to the fire? How will we enforce it? Perhaps you can't answer it; perhaps the justice department needs to be involved, perhaps the IJC, but just give me a brief analysis and then we can ask the IJC if that needs to be done.

• (1035)

**Mr. William Crosbie:** Well, earlier on we addressed this question and pointed out that the U.S. government has submitted comments and changes they would like to see that would specify in the compact agreement that it does not infringe upon or in any way go against the provisions in the Boundary Waters Treaty.

Now the Government of Canada is preparing its comments, and clearly one of our objectives is to ensure that any of these agreements does not in any way appear to infringe upon the Boundary Waters Treaty and the obligations that both governments have.

**Ms. Yasmin Ratansi:** So we need to wait and see those responses.

**Mr. William Crosbie:** We have asked for legal opinions. Department of Justice and Department of Foreign Affairs lawyers are assisting in preparing those legal opinions.

**Ms. Yasmin Ratansi:** I guess it's a question of trust and how we trust the enforcement within that agreement.

**Mrs. Karen Brown:** I think it's important to note that the compact is a draft that's out for public consultation. The Great Lakes governors are receiving lots of comments, as you can appreciate, in addition to those that have been directed to them by the U.S. State Department. We fully expect that there will be amendments and changes to these agreements, so we're all in a state where we're not quite sure what the revised versions will look like, how they will accommodate the issues—clearly, they must accommodate the U.S. State Department—and how they will deal with some of the other challenges that have been heard.

We're certainly not going to comment on the U.S. compact, but we certainly will comment on the water resources agreement.

**The Chair:** Thank you.

Mr. Simard.

[Translation]

**Mr. Christian Simard:** I don't think that should be examined from a legal standpoint. My understanding of the problem is that there is an extreme problem for the transfer of water from the Great Lakes outside the Great Lakes basin, that the demand is so strong that a solution will have to be found and that it will be very hard for us to take legal action against anyone. It will be extremely difficult to know how to apply the standards and how to monitor a host of private businesses. The devil, in all this, is in the details. In this case, if there are standards and there is a diversion, it will be virtually impossible to prove that there has been an agreement violation in view of the fact that it will be impossible to trace the water leaving the Great Lakes, to know exactly where it is. This is similar to the problem of traceability in other fields. We have absolutely no integrated management or understanding of this.

I was wondering earlier whether the status quo would not be better than an agreement such as this, which will necessarily lead to potentially large diversions of water from the Great Lakes that we won't be able to prove and won't be able to realize until it's too late.

[English]

**The Chair:** Thank you, Mr. Simard.

Mr. Watson.

**Mr. Jeff Watson:** Thank you.

It's clear—at least it seems clear to me from testimony today—that the federal government has some concerns about the agreement as it's written. My first question is, as written, will these agreements diminish at all the power within the Boundary Waters Treaty to protect the Great Lakes?

**Mrs. Karen Brown:** That's under review. Clearly, as Minister Pettigrew and I think Minister Dion have stated quite publicly, it is our intention to ensure that we provide comments to ensure consistency with them. It's clear that we are very much in defence, as is the U.S. government, of the Boundary Waters Treaty and our obligations therein and as well the International Boundary Waters Treaty Act.

**Mr. Jeff Watson:** My last question to you here, then, is this. What options are available to the federal government as far as seeking changes goes? I'm looking for what the course of action is from here on out, not what changes you're looking for. What is the federal government going to do to seek changes? What mechanisms are available to it in order to obtain these changes?

**Mrs. Karen Brown:** Well, we'll certainly be submitting our comments to the Great Lakes governors. We will work very closely with the provinces of Quebec and Ontario and with the U.S. government. That's the next step once we have a draft comment we're comfortable with and we have fully integrated the Justice opinions.

• (1040)

**The Chair:** Mr. Fawcett.

**Mr. Peter Fawcett:** Mr. Chair, if I can I'll just add to that. In February 2001 the federal government submitted comprehensive comments on a very permissive proposal that was proposed at that time. In fact, they were talking about 5 million gallons a day as a threshold to review diversions out of the basin. I'm pleased to say that after the comments were received in a number of other states—not just Michigan but a number of other states.... New York in particular was very concerned about the level of diversions. The annex that came out of that process, I think, outlined some principles that really put this more in the context of what we wanted to achieve.

I think the council is looking forward to the comments from the Government of Canada and then will reflect upon all of the input they've received through this process.

**The Chair:** Thank you.

Mr. McGuinty.

**Mr. David McGuinty:** Thank you, Mr. Chairman.

I'd like to pick up on a couple of comments that were more generalized about water and maybe take advantage of your presence this morning. Now, I haven't seen any recent numbers. If you have any insight on this, I would be particularly pleased to hear it. My understanding is about 84% to 88% of all fresh water used in the United States and Canada is for irrigation purposes. I don't know if that trend is increasing or decreasing as irrigation becomes more technologically advanced, as we find, for example, new underground sources and more sophisticated ways of irrigating massive crops, particularly in the American Midwest.

I don't know if the trend of the American northeast emptying as more and more cities are built in the desert in the southwest is continuing or whether that's in fact going to create more pressure for freshwater demands in many of those areas. I hear that often but I've never seen any evidence to suggest it or trends suggesting that's where we're going.

I think water is probably going to be a global problem. Probably in most developing countries it's the global problem today—as opposed to, for example, climate change—in the minds of many people living in developing countries and cities.

Have you heard any more about the movement toward small, stationary nuclear desalination plants in terms of the economics? I think, Ms. Brown, you mentioned something about the economics of water changing or not changing in terms of the cost, or maybe it was Mr. Crosbie. I know the French nuclear industry has been examining desalination market opportunities going forward, something that might be very difficult to resist going forward as we do see water shortages in some of the driest places on the planet. Can you comment generally?

**Ms. Jennifer Moore:** We're certainly not technical experts. You raised the point about the global challenges, and there's no question there's a major global challenge. There are millennium development goals for trying to improve access on both the drinking water and the sanitation side. There's lots of discussion about how you make that happen.

I would say that beyond desalinization there are all sorts of technologies. They're starting to change, to shift from systems to household levels, and there's a fair bit of work going on in those areas. I think that technology in a number of areas is going to be fairly important for us to try to address the demand side and the conservation of water. If you want more details, we can certainly get back to you, but I'd say generally there's a lot of work going on out there.

On the question about trends, I can say we certainly monitor that. There's agriculture and there are municipal uses. Residentially, Canadians are the second highest per capita users of water of any country in the world, and that's second to the United States. I think that's something that really reminds us, on the demand, management, and conservation side, that there's a lot of work we can do. We're looking at a number of strategies around that, working with the Canadian Council of Ministers of the Environment. There's starting to be some work on conservation, and that's something we will continue to focus more on.

**The Chair:** Thank you.

Mr. McGuinty.

**Mr. David McGuinty:** Mr. Chairman, I'd like some indication from the witnesses this morning with respect to where we are nationally in terms of our hydrogeology knowledge. How much do we know? How much funding is being made available on a year-in and year-out basis for us to actually know where we are from a hydrogeological perspective? For the flows and how much water we have, how much science is being invested here? I refer to resourcing for this kind of analysis and knowledge so we are in a better position to know what the state of the art of the water question is in Canada.

• (1045)

**Mrs. Karen Brown:** We'd certainly be happy to provide that in more detail. In general terms, when you talk about the hydrogeologic state, you talk about everything from precipitation, snow packs, and snow melt—the hydrogeologic cycle in that broad sense—to groundwater and the like. It's a fairly complex system, as you can appreciate. It involves everybody from meteorologists to hydrogeologists to groundwater specialists. It varies in terms of the level of detail we have around the country. We have a pretty good handle on the Rocky Mountain areas and flows into the prairies. There have been quite a lot of studies done there as well as on some of the impacts further north.

Our colleagues in the Geological Survey have instituted a very systematic study to start to take a look at the groundwater reservoirs. The oil and gas reservoirs in this country are better understood than the groundwater reservoirs, as you all know. We are starting to do that quite systematically and are trying to invest as best we can in trying to get a handle on that, working very closely with provincial colleagues as well as with other experts, scientists, and universities.

It's not perfect by any means, but we can certainly provide more detail.

**The Chair:** I think we have come to the end of the questioning. If I may make some observations....

Sorry, Mr. Wilfert, you are the last one. Then I'll have the final comment.

Mr. Wilfert.

**Hon. Bryon Wilfert:** I appreciate the generosity of the chair.

One's a mechanics question. We have Justice, Environment, and Foreign Affairs. I know how things work around here, and I would like to make it clear, in terms of the coordinated approach, which is the lead department.

**Mrs. Karen Brown:** I think it's fair to say the lead department is Foreign Affairs with respect to the International Boundary Waters Treaty Act obligations. We're obviously very much the scientific expertise and work very closely with them. Mr. Pettigrew is in fact the lead minister.

**Hon. Bryon Wilfert:** I have noticed sometimes in question period these discussions about whether Foreign Affairs will take the question, or whether we will take the question in Environment. I really want to make sure that all three are working seamlessly together.

You indicated that your comments would be made to the Council of Great Lakes Governors. We have a date to wrap up on this committee no later than November 26. Will those comments be made available to this committee before November 26?

**Mrs. Karen Brown:** We can certainly consult with ministers and suggest that. Likewise, we assume that ministers will be very interested in hearing the views of the committee before finalizing comments. So we should try to coordinate our reviews.

**Hon. Bryon Wilfert:** I think, Mr. Chairman, it would be helpful to know what comments are going to be submitted. If we are going to make any recommendations, it would be better not to do it within a vacuum. If that message could be delivered, it would be helpful.

I'm obviously concerned that how this issue is dealt with today will have significant implications for tomorrow and down the road, whether it's the Great Lakes, issues in western Canada dealing with Montana and Alberta, or North Dakota and Manitoba. Of course, we have to get outside of the American election. A lot of posturing has gone on. But I certainly think it's critical that we need to be very clear, because this is going to be the oil of the 21st century, and we're not as rich in it as some might think.

The other bogeyman that's often out there is NAFTA. I keep hearing that this isn't under NAFTA. Well, I want to make it absolutely clear. I don't want to see us up against a situation one day where article 11 is brought out and suddenly it's, oh no, we didn't mean that. We distinguish between bulk water exports and bottled water issues, and I get a little concerned and a little nervous.

So I hope at another time we are going to do this, but my major concern right now is that we have a clear understanding of the comments that are going to be made, and that officials be made available in case we need to extract more information from the comments that are presented.

Thank you.

• (1050)

**The Chair:** I'm sure they will be taken under consideration.

Mr. Bigras.

[Translation]

**Mr. Bernard Bigras:** Thank you, Mr. Chair.

In February 2001, before the Council of Great Lakes Governors, the Canadian government expressed reservations with regard to, among other things, the standards established in that agreement. It indicated that those standards could permit extractions of water in the Great Lakes basin or in other regions.

Mr. Fawcett, I would like to know whether, since February 8, 2001, you have had any discussions with your provincial counterparts, among others, from Quebec and Ontario, that would enable you to reconsider these concerns. Have you had any relations with Government of Quebec officials? Have the discussions that you had in recent months or recent years reassured you with regard to the concerns you expressed before the Council of Governors on February 8, 2001?

[English]

**Mr. Peter Fawcett:** Thank you very much for the question.

Yes, we have been in consultation with Quebec officials and officials from the Government of Ontario who sit on this water working group under the Council of Great Lakes Governors.

As I said earlier, the proposal that was before the council in 2000—and our comments in February 2001—was a very permissive proposal of five million gallons a day for diversions. Certainly we were very concerned that this would lead to long-range diversions out of the basin that would not be brought back in.

Perhaps the best answer to preventing any diversions a long way out of the basin is to have an agreement that brings those parties who manage water in the basin together so they have a common standard to review proposals, better information on which to make those determinations, and better science from which that data emerges. Closer cooperation will be part of the solution to management within the basin. As we've said a number of times, we have the backstop of the International Boundary Waters Treaty that would prevent any project from going forward if it affected the levels and flows on the other side. Those obligations under the treaty remain.

As a final point, as this goes forward—there was a comment earlier about enforcement—enforcement is absolutely essential to this, because you have such a long period of approvals from the various states, legislation, and so many different starting places. Some states don't have any permitting requirements currently. Others have very good information and very good data similar to our own. So there is a real need to coordinate the implementation of this, and an ongoing need for our coordination with our colleagues in Ontario and Quebec.

[Translation]

**Mr. Bernard Bigras:** In your discussions with the provinces, with Quebec, among others, did you feel that there was a certain form of delinquency on the part of those people? Do you sense that? Are relations with the provinces going well? Do you feel the spirit is being complied with? Is there good cooperation? Are you conducting discussions? You didn't tell me whether you had had any discussions with Quebec. What is the status of your discussions?

[English]

**Mr. Peter Fawcett:** We met with both Ontario and Quebec in September. We had a very good discussion, I think, of the proposals. Until that time we had talked about the concept and what was being considered, but only when the proposal came out on July 19 did we have some specifics that we could then sit down and discuss.

Certainly our partner in this, Environment Canada, had some very good questions for our colleagues about what the implications of this are. They are the parties to this proposal. They've been involved in many of the discussions, and they've had many detailed discussions within the Council of the Great Lakes Governors.

So it's a very technical matter. There's certainly room for improvement, and I think both Ontario and Quebec agree that there is a need for further precision as we go forward with this.

• (1055)

**The Chair:** Thank you.

Members, the next committee is coming in. Perhaps I will now conclude and thank our witnesses.

I would like to indicate that when we look through our bible of jurisdiction and what not, we see that Environment Canada comes directly under the purview of this committee. When you look in the delineation of responsibilities, the two that pop out are “to conserve and protect Canada's water resources” and “to enforce the rules of the Canada-U.S. International Joint Commission”. Those are the mandates under that part of our proceedings, if you will.

Mr. Herb Gray has been here today. He will be in next day when we'll continue this line of questioning.

I'd like to thank the witnesses and I'd like to also welcome Mr. Charles Caccia. Charles was the committee chair for 11 years, a former Minister of the Environment, who will continue to be here. Charles, I think you can take some comfort that the baton has been passed on, and you can see by the line of questioning from the members of this committee that the environment will continue to be in good hands through the deliberations and the competencies of the members of this committee. We appreciate your being here today.

Thank you, and thank you to the witnesses.

Members of the committee, before we adjourn I'd like to bring you up to date on a few things.

First, the steering committee did meet. We are going to recommend to you—but there will be an additional report—that we use the framework of Kyoto to cross-cut into some of the issues that have been raised by the Commissioner of the Environment and

some of the concerns raised in our other meeting, in particular around the issues of finance. Tim is working on putting some sort of agenda together for your consideration.

Second, we have two bills—parks and birds—and these two bills will be coming before the committee probably next week. Mr. Wilfert, we are hoping the minister can address both of those in order that the committee can condense its deliberations. Mr. Wilfert, perhaps you could follow up on that with the minister.

Finally, in terms of witnesses before the committee pursuant to the issue at hand, it would be my suggestion that we have another couple of days. The chair has received suggestions for witnesses from some of the members, and you have received or will be receiving from Tim a sort of background overview of some of those witnesses. Have you got those out yet, Tim?

**Mr. Tim Williams (Committee Researcher):** Just to you.

**The Chair:** Oh, I see. I think they could be distributed. Absolutely, they should be shared with the rest of the committee.

My suggestion would be to please submit any further witnesses, and then the steering committee will look at the issues that have been raised and attempt to come back with a recommendation next Tuesday of the witnesses we think should be scheduled.

Mr. Bigras, we'll attempt to have that next Tuesday before our regular meeting.

**Hon. Bryon Wilfert:** Mr. Chairman, on the bills, yes, I think that will be fine.

On the list of witnesses, I have provided, in English and French, suggested witnesses, and hopefully it will be of interest of the committee.

**The Chair:** Thank you.

This meeting is adjourned.

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