

The emperor's new clothes.

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On my way to an interview with colleague and journalist Jerry Thompson for his upcoming two-hour CBC TV special on water, Prime Minister Jean Chretien's absurd position on the water and NAFTA dilemma (if we don't call water a "good" it won't be one), brought to mind a childhood story.

"But the emperor has no clothes!" shouted the child.

A hush fell over the crowd.

"Don't be ridiculous," replied the emperor. "The court tailors have assured me this cloth is of the highest quality. And look how fine the stitches are - why, you can hardly see them!" And with that the emperor waddled down the street.

But the spell of silence had been broken by the child's clear voice. One by one, first in whispers, but building quickly to derisive laughter, his subjects repeated the child's simple truth. And so the emperor fired the royal tailors, put his clothes back on, and acted like an emperor again (albeit one quite ready for retirement).

By taking the foolish advice of his royal tailors, all the emperor exposed was his own pitiful butt. By taking the advice of his spin doctors, Chretien has exposed every Canadian to unbounded claims against Canada's water resources and/or compensation should such claims be denied. Failure to explicitly exclude water from the terms of the North American Free Trade Agreement automatically subjects it to the full terms and conditions of that agreement, including its national treatment provisions as they apply to trade, investment and services. This effectively pre-empts Canada's right to manage this resource in the interests of Canadians. Under NAFTA rules, Americans have equal access to Canadian water as have Canadians themselves.

Compensation for unrealized profits?

Can Canada say "no" to water exports? Of course we can, for as long as we can continue to afford to pay the compensation claims under NAFTA's Chapter 11. Compensation for the unrealized profit expectations of would-be exporters paid out from taxpayer dollars otherwise earmarked for hospitals.

Or schools. Win-Win for would-be exporters. Lose-Lose for Canadians.

And there are plenty of "turn on the tap" scenarios - consider, for example, the irrigation example wherein a province decides to build an irrigation project to provide benefits to - let's say - southern Saskatchewan farmers.

Under NAFTA, Americans are well within their rights to say "our farmers have an equal need for this water and we want to participate in this project. Under NAFTA, the government can't make water available to Canadian farmers to the exclusion of American farmers if American farmers wish to share in the benefits of such a project.

Back in 1987, the response of the federal politicians when questioned by Canadians on the issue was instantaneous and adamant: water is NOT included in the trade agreement.

Now, a scant 12 years after the issue was first raised, Canadians find themselves on the short end of a Chapter 11 challenge by California-based Sun Belt Water which claims "...an order for the restoration of the fresh water export licensing arrangements..." or \$15 billion Cdn in compensation for profits denied. Sun Belt is perfectly justified in bringing such an action, and they won't be the last.

In response, the government has been desperately trying to put the best spin on the issue. Last fall, it was the "voluntary provincial accord" put forward by the feds for ratification by the provincial environment ministers at their November meeting in Alberta.

The text of the proposed accord, held tightly under wraps by the federal government for good reason, was a simple one. "We agree to prohibit the bulk removal of water from major drainage basins including for the purposes of export. Each jurisdiction will form its own approach..." In its fine print, the proposed accord went on to note "for the purposes of this agreement, Canada has FIVE major drainage basins: Atlantic, Pacific, Hudson's Bay, Arctic and Gulf of Mexico.

Bingo. Water exports to California? Not allowed from Quebec (it's a different watershed). But from British Columbia? No problemo - since California and B.C. share the Pacific drainage basin; exports would be at the discretion of the province.

Luckily, the proposed provincial environment ministers' accord failed; it would have fully undermined Canada's ability to now solve the matter.

Canada's turn at bat

What Canada must do - and do quickly - is combine a temporary ban on exports (awaiting a Federal Water Strategy) with an immediate and formal demand to the Americans to "fix the error" by excluding (carving out) water from the trade, investment and service provisions of NAFTA. A demand which, properly negotiated, would be irresistible (Canada sans water is better than no Canada at all).

The game is called hardball. And it's Canada's turn at bat.

Like the child in the fairy tale, an entire block of grade eight science students (100 in all) carefully crafted individual letters explaining the folly of the PM's ridiculous and dangerous position on water, and delivered them this past winter, through her majesty's representative, the governor general.

The children have called it as it is: your defense of Canada's water is non-existent. Fire the royal spin doctors, Jean, don a proper defense of this critical public policy issue and act like a leader. For Canada's sake.-