

**Presentation to the Standing Committee  
on Communities, Land and Environment  
From the Coalition for the Protection of PEI Water  
Wednesday, October 26<sup>th</sup>, 2016**

**Leo Broderick  
Andrew Lush  
Don Mazer  
Chris Ortenburger**

Chairperson Casey, Honourable Members Bevan-Baker, Compton, Gallant, MacEwen, Murphy, Perry, and Trivers, and Clerk Doiron: Thank you for asking us to present to the Standing Committee today. Speaking today will be Leo Broderick, Don Mazer, Andrew Lush and Chris Ortenburger.

Leo, Don, Andrew and Chris represent member organizations of the Coalition for the Protection of PEI Water, including the Council of Canadians, the Environmental Coalition of PEI, Don't Frack PEI, and the Citizens' Alliance of P.E.I., respectively. There are about 20 member organizations, and over 200 individual members, and many Islanders following on-line.

The Coalition was formed in 2013, by the Citizens' Alliance, in response to many groups' concerns about the lifting of the moratorium on high capacity wells for agriculture. We soon realized that a totally revamped and revisioned *Water Act* would be a way to address the issues and the gaps in water quality and quantity protection, and we credit the precursor of this committee with holding hearings and then recommending in its Spring 2014 Report to the Legislature that a new *Water Act* be written. We look forward to the first draft.

Bottled water has been in the news recently, not only here on PEI but in California and in Ontario. And the news surrounding bottled water is not good. That's the reason we and many other Islanders are so concerned about the possibility of a bottled water company being allowed to set up shop here.

Take the situation in California. While California is in the midst of a historic drought, Nestle, the largest bottler of water in the world, is drawing millions and millions of liters a year from public lands. Using a permit that actually expired in 1988, Nestle is able to make huge amounts of profit off these lands while paying just \$524 a year. There is a proclaimed state of emergency because of water shortages in California, and Nestlé's profiting hugely from what's left. Does that make sense? In Ontario due to Nestlé's voracious appetite for Ontario's groundwater, the Liberal government is proposing a two year moratorium on the creation of any bottled water operations as part of a plan to strengthen the rules around water taking permits. Nestlé's operations have been a source of considerable conflict in Southern Ontario, where they have competed and outbid communities in the Guelph area which are seeking to provide a secure water supply for their citizens.

The people in parts of mainland Nova Scotia thought they had plentiful water until this summer. One media source said in late September, "The warm, dry summer of 2016 in Nova Scotia may be ideal for many, but for residents in the southwestern portion of the province, the last month has been challenging. A lack of rain has left about 1,000 families without access to water after their wells dried up."

And a recent study by University of Victoria civil engineer Tom Gleeson and others in the Earth Sciences multi-disciplinary journal *Nature Geoscience* demonstrates that the supply of groundwater available is less than we thought. Only 6% of groundwater can be renewed during an average human lifetime. Scientists call this "modern" water that has accumulated under the earth for only 25 to 100 years. It is generally more readily available than ancient groundwater and is more vulnerable to contamination and to climate change. If we extract more water than we should, the level of the aquifer sinks – and it can take decades to replenish.

Globally, recharging aquifers is a looming disaster especially with climate change - and for us in PEI with less snow predicted for the future we will also be in trouble. (Yet, our public officials on PEI encourage us to believe that we have plentiful groundwater.) The more we can keep groundwater in the ground - the better off we and other living things will be now, and in the future.

For the past year we have been engaged in a widespread public consultation in the development of a *Water Act*. At the heart of these discussions are the moral and ethical issues about who “owns” water and what should be priorities for its use. These issues will be addressed in the forthcoming draft of the *Water Act*. At that point, there will be the opportunity for the necessary extensive public consultations on these issues leading to a clear statement of priorities in the Act.

To allow the bottled water plant to go forward undermines and contradicts the spirit of the successful, collaborative consultation process encouraged by this government in the past year. You see, from these consultations, we have a good idea about how Islanders value water. Group after group, person after person, all called for affirmation that water is a human right and a public trust, and said that surface and groundwater belong to the people. Many stated that the public, human right to water must take precedence over individual rights. Speakers

identified the clear priorities for water use that focus on meeting “essential” needs: maintaining healthy ecosystems, providing for basic human needs, and ensuring supply for fire and emergency services. Many spoke of a community’s right to say NO to groundwater developments in order to protect that groundwater. As well, groups called for a permanent ban on bottled water plants in the province. In September, at a Brookvale community meeting to discuss the Pure Island Waters proposal, Brookvale residents expressed almost unanimous opposition to this plan.

The development of the *Water Act* reflects the collective awareness that our current policies and regulations have been inadequate in protecting our water and ecosystems. **While we await a new *Water Act*, we should not continue to make decisions based on the very policies that require change.** We must have some interim guidelines that are based upon the “essential needs” priorities listed earlier. Minister Mitchell indicated to us in a meeting on September 13<sup>th</sup> of this year, that the Pure Island Waters Ltd. proposal meets all the regulatory requirements and does not even trigger the need for an Environmental Impact Assessment. It was striking to hear that, as Minister, he felt he could do nothing to stop this business from selling Island groundwater, or stop any other business with a similar plan.

Clearly, the current Section 12 of the *Environmental Protection Act* is woefully inadequate and needs to be changed. At the moment, it allows a company to export P.E.I.’s groundwater in containers of 25 liters or smaller. Under the present regulations, any number of “small” bottled water plants could be established, requiring only a change in variance for land use to begin operation. But once P.E.I. is “open for business” in bottled water, it exposes us to the possibility of large bottled water corporate interests, like Nestle, moving into this market—companies which might be difficult to regulate because of trade treaties.

Allowing water exports sets a dangerous precedent. In September, the citizens’ group Don’t Frack PEI spoke to the Federal Standing Committee on Trade about the TPP (the Trans Pacific Partnership) and how it, and other trade agreements like NAFTA, opens the door for companies to sue the federal government if they feel that their “legitimate expectations” have been frustrated.

In the case of Bilcon vs. Canada, the government of Nova Scotia had denied Bilcon a mining permit for environmental reasons. A NAFTA tribunal ruled that because the provincial government had produced general promotional materials designed to attract mining investment, and because they had issued permits to other (but quite different) mining operations, they had caused Bilcon to have “legitimate expectations” that they could open their mine. The NAFTA tribunal found against the government, and now Bilcon is suing the federal government for \$101million. It is entirely possible that the federal government will attempt to compel the Nova Scotia government to allow the mine, rather than paying the fine.

Our coalition is extremely concerned that if we allow water exports, PEI will be seen to be “open for business” for the export of water, and we won’t be able to stop a much larger company from opening a much larger water export business. If we do try to stop such a company, the Investor State Dispute mechanism of NAFTA, and other trade agreements, can be used to effectively overrule provincial environmental legislation, allowing the bulk export of PEI water.

So we need to ensure that we have no water export businesses on PEI, so as not to set a precedent. We also need to ensure that our provincial government does not encourage, support, or otherwise allow, in any way, the export of water from PEI.

(Submitted for reference with this presentation) is a paper from the Columbia Center on Sustainable Development, which provides more detail on how trade agreements can seriously undermine local environmental legislation, along with references.

It is important to encourage the development of small businesses on P.E.I. – businesses that are environmentally sustainable, that have a minimal ecological footprint and that encourage positive environmental behavior. It is imperative that we begin to think of environmental and economic issues together. This proposal, and bottled water more generally, does not meet these environmental standards. We are a small, and ecologically fragile province, entirely dependent on groundwater, where there are already many challenges to the water supply and safety from commercial activities like farming, car washes, golf courses, and from the water that we need to maintain the “essential needs” listed above. The fact that we export huge quantities of water in our potatoes is a better argument

against bottled water than it is for it. What public good comes from introducing an additional stress on Island groundwater?

The rivers and streams on PEI require all the groundwater they can get to support the biodiversity of aquatic ecosystems. In the summer, 100% of stream flow is composed of groundwater seepage. In recent years, streams often dry up during the summer months, as the springs that supply them no longer flow, endangering fish habitat. A local freshwater biologist confirms that a tributary of a branch of the West River now goes dry each summer, right where the proposed plant site in Brookvale would be located. Water being extracted, bottled and exported, of course, is not available to recharge the aquifer. What would be the impact of the proposed extraction on the health of this ecosystem?

The Watershed Alliance, which speaks for many watershed organizations on the Island, testified to this committee last week that they unambiguously reject a bottle water plant proposal for Prince Edward Island.

A related note is that the Pure Island Waters Ltd. proposal also plans to draw its water for export from the deeper aquifer; this is “ancient” water that recharges far more slowly, if at all. It seems ironic that the company intends to market the purity of Island water, but would dig very deep wells to get beyond the risk of chemical contamination of the water from the aquifers that all of us drink from on a daily basis.

IF we accept this proposal, we would be undeniably headed in the wrong direction, *for much of North America is acknowledging the negative effects of bottled water for routine hydration*. Communities like Toronto have limited the sale of bottled water at civic facilities, the University of Ottawa has banned its sale on campus. Montreal is considering a total ban. Concord, Massachusetts, has already banned all sale of plastic water bottles, and San Francisco is moving in that direction. There are numerous environmental reasons: the tremendous waste of plastic bottles, the energy consumed in production and distribution, the undermining of faith, confidence and support (and monies) for the public water system. **For Prince Edward Island, there is simply no justification for a bottled water industry, other than private gain, and many reasons why we should reject it. It is exactly the kind of business that we do not need.**

We believe, and many Islanders agree with us, that Pure Island Waters Ltd. should not be allowed to put groundwater up for sale, regardless of extracting it with low- or high-capacity wells.

Not only does the Coalition for the Protection of PEI Water strongly oppose the proposal, as it represents a significant and unwanted step towards the commodification of the Island's groundwater, we further urge this Standing Committee to recommend to Executive Council and the Legislative Assembly to oppose the commodification of water, and to modify all existing legislation and regulations to stop the extraction and sale of Island groundwater and drinking water for profit and export.

As former Lieutenant Governor, Speaker and MLA Marion Reid recently wrote, "We need to conserve and protect our water supply, and there is no legitimate reason ever to put our finite water resources on the market. Further, we have no right to do that as our groundwater belongs to everyone. I am only one person, but my conscience will not allow me to remain silent on this matter."

Perhaps this is the Island's conscience speaking.

Thank you for your time and attention.