

## Water and Cooperation

Written by Mary Durfee

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MARY DURFEE, NOV 12 2008

Recent news in June 2008 that a Japanese firm has prototyped a car that runs on the reaction between metal hydride and water, did not cause joy in my heart. I was delighted to learn it was not really true. Like the rush to biofuels based on plants people eat, putting even small amounts of water into a car only bodes ill for the environment and human rights ahead. Meanwhile, climate change offers too much fresh water here, too little there, or too saline yet other there. Sorting out the public health/human rights of water from the ecological issues will be a stern challenge for politics at all levels of governance.

People surely waste water from their public taps. So, putting an appropriate value on water would conserve water in this difficult time of climate change and high demand. But in setting the price right, it is also important to keep safe drinking water a public good and not a commodity. There is disagreement whether world trade rules would allow governments to regulate the means of transporting a commodity. Thus, water as a commodity might be shipped through pipelines or bottles. I live in the Great Lakes of North America, and calls to transport water to irrigate cotton fields in Arizona make me nervous for this very reason. The governments of the US and Canada say that neither NAFTA nor GATT XI would likely impair the capacity of the governments to regulate the water, but the public and some experts remain unconvinced. At present it is economically unlikely to be a viable solution, with conservation the preferred method.

Mass shipments, along with current unsustainable patterns of water consumption (especially in the US and Canada), would be an ecological disaster twice over, for the sending and the receiving area. Some ecosystems are supposed to be dry, while others are not. The task for government is to find ways to develop that are consistent with the climate and associated ecosystems, even if those ecosystems have been degraded. The aim should be to minimize the cost and ecological danger of building hydraulic societies. (Donald Worster, *Rivers of Empire: Water, Aridity, and the Growth of the American West*, Oxford, 1985).

The problem hardly ends there, either. Well-meaning people who want to alleviate suffering sometimes think water-rich places need to sell or give surface water to water-poor places in the developing world. Even this, however, lacks insight into how the North got better government and clean, inexpensive water for drinking and sanitation. Building drinking water systems builds communities. If the North takes the route of transporting water to the developing world on a regular basis, even leaving aside the trade and ecological issues, developing country governments will not invest the funds into clean water that Europe and parts of North America did many years ago and continue to do—a not inconsiderable learning experience for good government.

The Great Lakes of North America are a fresh-water-rich part of the world and have been studied, monitored, and managed for nearly a century. What we know from this part of the world illustrates the complexities of trade, environment, human rights to health, and good government noted above. The appearance of abundant water is deceptive. This area has been so well studied that we know the water is never wasted but faces competing uses by people and Nature. And, this area is also prone to the climactic uncertainties of our present age. So far all the models say the levels will go down. Thus increased pressures to conserve and preserve the region are the way forward and those goals are being pursued from an ecosystem perspective.

One reason the Great Lakes are reasonably well managed and protected is due to a treaty and a small international

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organization. The Boundary Waters Treaty of 1909 anchors the system and is the source of the little IO, the International Joint Commission (IJC). It's a bilateral treaty between the US and Canada (Britain at the time of negotiation) that has mitigated some of the usual mischief associated with water and in the process helped encourage cooperation and even coordination between the two states. Unlike any other international water agreement, the treaty has a hierarchy of water uses:

- A) drinking, sanitation, and public health
- B) navigation
- C) agricultural, electrical, and other industrial uses

A one-sentence line in the treaty also says neither country should pollute the water to the detriment of the health or economy of the other. That was what led to the remarkable levels of research in ecosystems and the monitoring and reporting that gives us long-term insight into the behavior of this complex ecosystem. Addressing the treaty language on navigation the government is one reason why we have a clue on water levels and uses.

When originally formed, the negotiators hoped to have a mini-Hague system of dispute resolution—one where problems were solved on the ground among the affected parties. While it is not an judicial or arbitral court, the system does solve problems through the use of the hierarchy of uses and discussion with local people and water users. It places human health first and so has what we would now call a human rights perspective. Ultimately human health has been shown to be strongly tied to the quality of the water. As the Vision for Lake Superior puts it, "Water is life and the quality of water determines the quality of life." Navigation means people and goods can move about more freely. And last on the list are the economic uses. Even here, clean water is a boon to industry and agriculture.

When the IJC solves conflicts over water uses, they can set up local boards and referee disputes over water diversions. They report to the governments on how each country is living up to its side of the agreement. The IJC gets references, such as the one cited earlier, from the governments to consider special problems. The agreement also sets the IJC as the determiner of requests to divert waters for various purposes all along our mutual border—in line with the hierarchy of uses. In the US, the Great Lakes governors make some of the decisions with respect their internal waters if they are unlikely to have an international impact—and, informally, they cooperate with the Premiers of Ontario and, to a lesser degree of Quebec. The IJC can demand compensating works, so that irrigation is not undone by power generation (and vice versa) or authorize special protection so that the water stays reasonably clean and the ecosystem protected. It sets up local boards to manage the system (the Lake of the Woods Board of Control has been balancing interests since 1919). One result is local learning and governance of the waters. Effective international governance from a highly local situation thus evolves over time.

Given this Canada-US experience, excited claims about the coming water wars might or might not prove true. (Peter Annin, *The Great Lakes Water Wars: The Battle to Protect the Largest Reservoir of Fresh Surface Water on Earth*, Island Press, 2006) Just as water can take so many forms, talk about water can change how we manage it. If we always talk about water as a zero sum "resource" then conflict is more likely to become a self-fulfilling prophecy. If we think of it as a basic human need and a shared gift from nature, then cooperation is more likely to arise. In all the fighting between India and Pakistan, the water agreements for the rivers have held. In the Great Lakes of North American water has promoted democracy and effective international cooperation. Water connects us to the earth and to each other. You can't beat water into swords or plowshares; you can only use it wisely, humanely, and with humility.

*Mary Durfee is Associate Professor of Government at Michigan Technological University. She recently completed a Fulbright to Malta where she lectured in public international law and international relations. She is co-author with James N. Rosenau of *Thinking Theory Thoroughly* and has published on the Great Lakes of North America. She is a past US Co-Chair of the Lake Superior Binational Forum and is an appointed member of the US Environmental Protection Agency Science Advisory Board's Homeland Security Advisory Committee.*