Bill as Introduced

HR 7 – AS INTRODUCED

2003 SESSION

03-0525
05/01

HOUSE RESOLUTION **7**

A RESOLUTION urging increased consideration and preservation of local authority in international trade and investment agreements.

SPONSORS: Rep. Weed, Ches 25; Rep. Rush, Merr 36; Sen. Cohen, Dist 24

COMMITTEE: State-Federal Relations and Veterans Affairs

ANALYSIS

This resolution urges:

I. The federal government to ensure that international agreements preserve the traditional powers of state and local governments relative to investment, procurement, and trade in services.

II. The federal government to provide state and local officials with requested documentation of international agreements that restrict or otherwise impact state and local authority.

III. The creation of a state committee to assess the impact of international agreements on New Hampshire.

HR 7 - AS INTRODUCED

03-0525
05/01

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

A RESOLUTION urging increased consideration and preservation of local authority in international trade and investment agreements.

Whereas, the United States Trade Representative (USTR) is negotiating to create a Free Trade Area of the Americas (FTAA) among 34 nations of the Western Hemisphere, create bilateral agreements such as the U.S.-Chile agreement, expand the General Agreement on Trade in Services (GATS), interpret the investment chapter of the North American Free Trade Agreement (NAFTA), and potentially to add an investment agreement under the World Trade Organization (WTO); and

Whereas, these international negotiations include provisions on investment, procurement, and trade in services, all of which serve to shift power from state and local governments; and

Whereas, investment agreements increase foreign investor rights allowing challenges to core functions of state and local government, such as zoning, protection of ground water and other natural resources, corporate ownership of land and casinos, law enforcement by courts, and sovereign immunity; and

Whereas, procurement agreements are based on the standard that government purchasing decisions should be limited to price, without considering state and local purchasing preferences including recycled content, small business, minority and women-owned business, vendors with a competent tract record, and avoidance of goods made with forced child labor; and

Whereas, agreements on trade in services set a standard that regulations must not be more burdensome to trade than necessary, which affects services that are traditionally provided or regulated by cities and states, including alcoholic beverages, construction, health facilities, insurance, sewerage, solid waste, and potentially, water and energy; and

Whereas, serious concerns about these agreements have been raised by the National League of Cities, the National Conference of State Legislatures, the National Association of Counties and the National Association of Attorneys General; now, therefore, be it

Resolved by the House of Representatives:

That the house of representatives of the state of New Hampshire hereby urges:

I. Congress and the USTR to preserve the traditional powers of state and local governments as they negotiate and act upon international agreements by:

(a) Carving out state and local governments from the scope of investment, services, and procurement agreements;

(b) Where such carve out has not been achieved, assuring that such international rules do not deviate from traditional deference to state and local regulatory authority; and

(c) Eliminating state and local regulation from GATS rules on Domestic Regulation and limiting application of those rules to specific commitments made by counties.

II. The USTR to provide state and local officials access to negotiating documents necessary for such officials and their constituents to assess the potential impacts of such negotiations on their legitimate authority.

III. The creation of a state committee to assess the potential impact of international trade agreements on New Hampshire and to keep abreast of negotiations in order to advise the USTR on safeguarding state and local authority; and

That copies of this resolution, signed by the speaker of the house of representatives, be forwarded by the house clerk to the United States Trade Representative and to each member of the New Hampshire Congressional delegation.

Speakers

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HR 7 Date 1/28/03

Committee S/F

**** Please Print All Information ****

Name	Address	Phone	Representing	Pro	Con
Rep Deanna R[illegible]	Pembroke	485-4288	Dist 36	X	
Jerome Holden	P.O. Box 1085 Wolfeboro	5695335	3	✓	

Hearing Minutes

HOUSE COMMITTEE ON STATE-FEDERAL RELATIONS AND VETERANS AFFAIRS

PUBLIC HEARING ON HR 7

BILL TITLE: urging increased consideration and preservation of local authority in international trade and investment agreements.

DATE: January 28, 2003

LOB ROOM: 306 **Time Public Hearing Called to Order:** 11:33am

Time Adjourned: 12:30pm

(please circle if present)

Committee Members: Reps. Soughlin, Guay, D. Fields, Priestley, Albert, Balcom, Lessard, Marple, Easson, Hawkins, Headd, Kenney, Kerns, McCann, McElroy, McDonough-Wallace, Heon, Batchelder, Shaw, P. Sullivan and Sweeney.

Bill Sponsors: Rep. Weed, Rep. Rush, Sen. Cohen

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Weed, prime sponsor, spoke in support of this legislation. He stated it would be in our interest to protect state sovereignty and our culture of free trade. Send a message to those who negotiate trade issues. He noted that there is HB334 in the Commerce Committee to advise trade commission on annual effects of agreement.

Rep. Kerns asked Rep. Weed for his opinion on federal government resources to negotiate contracts. Rep. Weed responded that we do not negotiate international trade contracts.

Rep. Sullivan asked about the impact of more bureaucratic layer of government. Rep. Weed responded that this would not exclude advice to those on negotiating.

Rep. Sullivan asked if a partisan board would be better. Rep. Weed responded by law must conduct hearing once a year for international trade agreements.

Rep. Balcom asked about the difficulty to be specific to ensure. Rep. Weed responded that it doesn't cause illegal problems.

Rep. Batchelder questioned Line 7 to carve out state-local from agreements. Rep. Weed responded that regulations would not exclude states not to preempt law. In negotiations.

Rep. McCann stated that Dover supports the resolution for preserving state authority. No input on free trade. Government bodies make decisions that states not having information on trade.

Rep. Easson asked if trade negotiations are closed after this is open. Rep McCann responded, if you didn't see conflict with these agreements.

Rep. Headd asked about the impact of funded or non-funded. Rep. McCann responded that HB334 would cover those issues.

Arnold Alpert, representing the American Friends Service Committee, spoke in support. He stated that some contracts are not going to companies in certain states.

Rep. Kerns asked if there was a real problem in New Hampshire on trade. Mr. Alpert responded in the negative stating that this is just to send a message to protect the citizens.

* **Stephen Conklin, representing the Town of Barrington and Save Our Groundwater**, spoke in support of this legislation and provided written testimony.

Stuart Arnett, representing NH Economic Development (DRED) spoke in opposition to this legislation. He would like to see HB334. He stated that there is already an advisory committee. The language of the bill analysis fiscal note. He stated that in New Hampshire, international trade jobs has more manufacturers. Restrain free trade. Constitutionally of federal issues. He further stated that we need not to reverse this issue.

Respectfully submitted,

Dennis H. Fields, Clerk

Testimony

TITLE L
WATER MANAGEMENT AND PROTECTION

CHAPTER 481
STATE DAMS, RESERVOIRS AND OTHER WATER CONSERVATION PROJECTS

General Provisions

Section 481:1

481:1 Declaration of Policy. – The general court finds that an adequate supply of water is indispensable to the health, welfare and safety of the people of the state and is essential to the balance of the natural environment of the state. Further, the water resources of the state are subject to an ever-increasing demand for new and competing uses. The general court declares and determines that the water of New Hampshire whether located above or below ground constitutes a limited and, therefore, precious and invaluable public resource which should be protected, conserved and managed in the interest of present and future generations. The state as trustee of this resource for the public benefit declares that it has the authority and responsibility to provide careful stewardship over all the waters lying within its boundaries. The maximum public benefit shall be sought, including the assurance of health and safety, the enhancement of ecological and aesthetic values, and the overall economic, recreational and social well-being of the people of the state. All levels of government within the state, all departments, agencies, boards and commissions, and all other entities, public or private, having authority over the use, disposition or diversion of water resources, or over the use of the land overlying, or adjacent to, the water resources of the state, shall comply with this policy and with the state's comprehensive plan and program for water resources management and protection.

Source. 1935, 121:1. 1937, 118:1. RL 266:1. RSA 481:1. 1981, 505:1. 1985, 400:6, eff. June 26, 1985.

December 2, 2002

New Hampshire Department of Environmental Services
Water Supply Engineering Bureau
Attn : Brandon Kernen, P.G.
Hydrologist
PO Box 95, 6 Hazen Drive
Concord, NH 03302 – 0095

Dear Mr. Kernen

The following additional input regarding the proposed large groundwater extraction by the USA Springs Bottled Water Group in the Town of Nottingham, NH, is from SAVEOURGROUNDWATER.ORG (SOG). This is in accordance with the Department of Environmental Services (DES) extension of the public comment period.

The attached Comment, *An Unplanned Development: NAFTA Can Foil Water Policy*, presents five NAFTA remedies to business obstructions that would be available to USA Springs if they are granted a ten-year permit by DES. Each of these possible NAFTA remedies represents a contradiction for DES to the policy requirements of RSA 481.1. If DES grants the permit to USA Springs, the public should get clear and convincing reasoning from DES, in writing, as to how each of the proposed NAFTA remedies would be prevented by DES from happening.

At the 29 August 2002 Nottingham Informational Meeting, Acting Commissioner Dana Bisbee remarked that the issue of international trade impact, first identified to DES on 31 July 2001, was still unresolved by DES. DES jurisdiction for this issue has the same origin as that which applied to public trust doctrine, namely, RSA 481.1. I believe it would be useful for DES to set up a meeting similar in format to the meeting that was held on the subject of public trust doctrine. The alternative of trading position papers back and forth between stakeholders and government agencies is unnecessarily cumbersome and could very well end up not be timely to the permit process. Several municipal leaders and legislators wish to attend this proposed meeting, as was also the case with the public trust doctrine meeting.

New Hampshire is already active on the issue of international trade impact on self-governance. For example, the issue of international trade agreements was the subject of a letter dated 23 July 2002 by the National Association of Attorneys General, urging Congress to incorporate the following principle:

> *"International arbitration panels convened under international trade agreements should have no jurisdiction or authority to award financial compensation based on challenges to the rulings of state or federal courts."*

This letter was signed by Attorney General Philip McLaughlin of New Hampshire and thirty four other State Attorneys General.

Sincerely,

SAVEOURGROUNDWATER.ORG
Technical Committee
Steven B. Conklin, PE

Enclosure (1): *An Unplanned Development: NAFTA Can Foil Water Policy*

cc: Selectmen and Conservation Commission, Barrington
Planning Board, Barrington
Mark Beliveau
Selectmen and Conservation Commission, Nottingham
Planning Board, Nottingham
Tom Ballestero
Gove Environmental Services
Selectmen and Conservation Commission, Northwood
Dana Bisbee
Jennifer Patterson
Richard Head
George Musler
Janet Wall
Judith Spang
Deanna Rush
Charles Weed
Senator Caroline McCarley
Iris Estabrook
Richard Green
Governor Jeanne Shaheen
Susan Arnold
John E. Sununu
California State Senate Select Committee on International Trade Policy, Anna Blackshaw
Georgetown University Law Center, Harrison Institute for Public Law, Robert Stumberg
American Friends Service Committee, Arnold Alpert
Alliance for Democracy and Sierra Club, Ruth Caplan

AN UNPLANNED DEVELOPMENT: NAFTA CAN FOIL WATER POLICY

Steven Conklin

Introduction

A large groundwater withdrawal permit is being processed by the New Hampshire Department of Environmental Services (DES) as part of USA Springs' plan to provide a water source for their proposed bottling plant. The site of the groundwater withdrawal wells and, if approved, the proposed bottling plant is approximately one hundred acres located in Nottingham and Barrington, New Hampshire. DES is administering the permit for this large groundwater withdrawal in accordance with Env-Ws 388. The public comment period of Env-Ws 388 resulted in DES receiving two letters addressing international trade. The letters identified a concern that the North American Free Trade Agreement (NAFTA) could adversely impact DES regulation of this activity as required by Env-Ws 388. The letters raised the possibility that because of NAFTA, DES could at a future date be in the position that a mitigation "cannot or will not be mitigated" as required by Env-Ws 388.23(d)(1). Shortly after the first letter of 29 July 2001, DES requested assistance from the Environmental Protection Bureau of the New Hampshire Department of Justice to analyze and provide legal guidance regarding this concern. DES has yet to provide to the public a justified response regarding international trade impact on this large groundwater withdrawal and proposed bottling plant. It is the purpose of this Comment to provide sufficient technical rationale and available justification that DES will be able to respond to the public regarding the potential adverse impact of NAFTA.

In this Comment, Part I is an introduction to NAFTA, briefly describing the provisions in NAFTA available to the international business community for initiating and maintaining a New Hampshire focused business plan for international trade in bottled groundwater. Disputes submitted to a NAFTA Tribunal are included to illustrate the enforcement provisions of NAFTA. Part II provides known proposed business plan details relevant to the activities surrounding the referenced permit application. Details are provided on the one hundred acres including the wells, the proposed bottling plant, and the declared intent to expand the operation into 1400+ acres of abutting land in Barrington. Part III identifies existing business difficulties that could either impede or block the USA Springs' financiers from meeting a proposed bottling lines' design production capacity. Remedies will be presented on how those difficulties can be permanently overcome by employing the enforceable provisions of NAFTA. Part IV will summarize the unintentional dilemma DES faces. It will then be clear that the NAFTA provisions relevant to international trade in bottled water for which no answer (economic mitigation) exists will require DES to deny the USA Springs' permit.

I. NAFTA 101

A. Key Provisions of NAFTA

Appreciating the threat or benefit of NAFTA, depending on perspective, necessitates understanding the concept of "good" and its commercial implications, and then relating bottled water as a good to the NAFTA provisions of "national treatment", "proportionality", and "investor-state".

Chapter 3 of NAFTA establishes that the agreement's requirements apply to goods. It is derived from the General Agreement on Tariffs and Trade (GATT) definition of good. That definition includes "*waters, including natural or artificial waters and aerated waters*" and by way of note "*ordinary natural water of all kinds (other than sea water)*". A reasonable argument can be made that water in all its forms may not be considered a good. But GATT obligations clearly apply to "products", and bottled water fits the ordinary dictionary meaning of the word "product".

AN UNPLANNED DEVELOPMENT: NAFTA CAN FOIL WATER POLICY

The applicability of the concept of good to bottled water was directly addressed in an October 28, 1993, exchange between U.S. Trade Representative Mickey Kantor and subsequently, his Office, with an American Environmental Group. In a letter, Kantor states that when water is traded as a good, NAFTA is applicable. Further clarification from Kantor's Washington DC Office restricted his remark to bottled water. Recent conversations with Washington DC environmental activists confirmed that there has been no change in Kantor's position or applicability. That is consistent with the fact that Kantor's 1993 remarks continue to be quoted in current writings. Further support comes from the Joint Statement made in 1993, by Canada and the U.S. "*Unless water, in any form, has entered into commerce and becomes a good or product, it is not covered by the provisions of any trade agreement, including the NAFTA*". A Canadian finesse to prohibit removal of water in its natural state before it becomes a good could cast doubt on an understanding of the "form" issue as it applies to bottled water. The Canadian finesse appears flawed in several respects. The tariff schedules do not include unique restrictive wording regarding water removed from its natural state. Further, U.S. law recognizes water in its natural state as a commercial good and an article of commerce. U.S. law is consistent with international law, reflected in the European Court of Justice interpretation of good. The Canadian finesse highlights the uncertainty surrounding bulk water, but fortunately, it does not taint the bottled water issue of concern here.

"National treatment" obligation is found in Article 1102. This provision disallows a NAFTA country from discriminating in favor of its domestic companies. Consequently, New Hampshire would be forced to abide by U.S. treaty provisions regardless of any adverse impact in the state. For example, if a United States company extracts New Hampshire groundwater and then exports it as bottled water to Mexico, companies of the other NAFTA partner countries would have the same access rights to the commercial development of New Hampshire groundwater. Because of NAFTA, that access includes as a certainty the expectation of receiving the same statutory and regulatory treatment as afforded to the domestic company. The application of "national treatment" includes the obligation to provide "fair and equitable treatment" as found in customary international law.

"Proportionality" provisions are found in Article 315. Once export has been established, a NAFTA country cannot reduce or restrict the export of bottled water to another NAFTA country. Article 315 provides "*the restriction does not reduce the proportion of the total export shipments of the specific good made available to that other Party relative to the total supply of that good of the Party maintaining the restriction as compared to the proportion prevailing in the most recent 36month period for which data are available prior to the imposition of the measure, or in such other representative period on which the Parties may agree...*". In essence, the export of bottled water would be guaranteed at the amount exported over the preceding 36 months, forever. In the case of bottled groundwater, if groundwater withdrawal during production pumping were determined to be adversely impacting the environment, the supranational requirements of NAFTA would be applied, and pumping to maintain export flow would continue. Reduction or stoppage under this environmental scenario by a State or Municipal Government would in all likelihood entitle at least compensation to the company being restricted if taken to NAFTA dispute resolution.

"Investor-state" provisions originate in Chapter 11. A NAFTA country company can sue a government of another NAFTA country if it believes its rights have been damaged. This includes not only the traditional concepts involved with the "taking" of physical property, but an extension to include the concept of "regulatory taking" by way of a government initiative that negatively impacts the value of an investment or its current or long term profitability. This "national treatment" provision comes into effect at the time that the investment is established. Thus, under the provisions of Chapter 11, the U.S. guarantees NAFTA partner foreign companies "rights" that could clearly infringe on state or municipal prerogatives.

B. Relevant NAFTA Case Histories

Ethyl Corporation versus Canada was a successful application of Chapter 11 resulting in a $13M compensation payment to Ethyl Corporation and the reversal of the Canadian ban on the gasoline additive, MMT. Canada instituted a ban because of concern for groundwater pollution and evidence of MMT being a health hazard. Interestingly, MMT is presently banned in California and Europe. During the NAFTA Tribunal deliberations, NAFTA environmental allowances appeared inadequate to the Canadian government. With the Tribunal's work ongoing, Canada elected to stop the proceedings and settle. By settling, Canada ducked the Ethyl claim for $250M in compensation based on lost future profits. Unfortunately, Canada has been unable to realize progress in its regulation of the international trade of water as a result of the magnitude of possible future NAFTA claims of the type exemplified by the Ethyl Corporation lawsuit.

Metalclad versus United Mexican States was a successful application of Chapter 11 resulting in a $16.7M compensation payment to Metalclad. A local environmental law declaring a special ecological zone brought about by San Luis Potosi State prohibited the opening of a hazardous waste landfill built by Metalclad. The NAFTA Tribunal found that Mexico took actions that were expropriation without compensation, and that Mexico failed to act in a legally transparent manner consistent with "fair and equitable treatment". The Tribunal attached no significance to the Ecological Decree establishing the ecological zone. The finding on lack of transparency was overturned by the Supreme Court of British Columbia. The diversity of opinion regarding the extent of protection NAFTA provides private companies is apparent in Canadian Justice Tysoe's decision, and as a result, heightened interest in the Methanex Case.

Methanex Corporation versus United States is an ongoing suit against the U.S. due to California banning the use of MTBE in gasoline by December 2002. Methanex claims that the ban prohibits it from doing business in California and is seeking $970M in compensation. California has concluded that MTBE is a health hazard when leaking underground storage tanks contaminate drinking water supplies. Methanex considers that California had available other solutions than banning MTBE that would have had less trade impact. Michael Feinstein, mayor of Santa Monica, Ca., stated that a ruling favorable to Methanex "would have a devastatingly chilling effect on all such future laws and standards because of the belief that they would not stand up to challenge."

II. Business Plan

The DES large groundwater withdrawal permitting process and the Nottingham Planning Board site review activities have provided the people of New Hampshire important insight into the plans and objectives surrounding this bottled water business venture. These plans and objectives include details on the amount of water needed to support a specific bottling plant output. This information will support the notion that, either verbally or in actuality, an expeditious application of NAFTA provisions by way of NAFTA partner country companies will make USA Springs' business objectives both viable and achievable.

a. A proposed bottling plant design incorporates three bottling lines, each bottling line with a design capacity of 342,000 gallons per day (gpd). The bottling plant design has been proposed to operate at 351,000 gpd, a capacity utilization far below the collective bottling lines' capacity of 1,026,000 gpd. The proposed bottling plant operating capacity does roughly match the requested large groundwater withdrawal of 439,200 gpd in the permit application.
b. USA Springs' New Hampshire papers of incorporation identify that their purpose is to sell bottled water in both the domestic and international market.
c. A principal of USA Springs has publicly stated that they intend to expand their operation into 1400+ acres of abutting Barrington land owned by the principals.

d. Until notified of wetland violations, implementation of the business plan did not include compliance with wetland regulations. Development of the Nottingham well field was done without environmental permits and resulted in extensive environmental damage. Prior to the Nottingham well field work, the same disregard for environmental requirements took place in the development of the 1400+ acres in Barrington, resulting in DES issuing at that time wetland violations.
e. The principals have a large sum of money at stake in this business venture in terms of future profits. In Michigan, a similar sized bottling operation of 500,000 gpd has been estimated to be capable of generating a profit of $.5 to $1.8 million per day. Estimated profits for the Michigan financiers appear exclusive of any benefit derived from Yankee business ingenuity.

III. Business Issues

A. Apparent Problems

Executing the business plan for the ten-year period of the DES permit and successfully expanding into the 1400+ acres of Barrington land have problems. The problems fall into two categories. First, providing sources with sufficient water to meet a proposed bottling line capacity of 1,026,000 gpd, and then maintaining the flow or access to those sources if adverse situations should occur. Second, problems exist with respect to shipping the bottled water off the Nottingham site. Details are provided below.

a. Twenty acres of the 100 acre site detailed in the large groundwater withdrawal permit application are located in Barrington. The Nottingham Zoning Board of Adjustment special exception designating the Nottingham land as zoned commercial/industrial does not change the Barrington land zoning status, which is General District. The Barrington General District zoning does not specifically permit commercial/industrial activity like this large groundwater withdrawal or bottling plant. A Barrington zoning variance is required, as the 20 acres will be used commercially to meet sanitary area requirements that are DES specified when groundwater is used as a source for bottled water.
b. Expansion of their operation into their 1400+ acres of abutting Barrington land for the purpose of providing additional groundwater to their proposed bottling plant would not be a use allowed by the applicable Barrington zoning. Essentially all of the 1400+ acres are zoned Barrington General District.
c. A large groundwater withdrawal from the 1400+ acres of Barrington land would require processing a new permit in accordance with Env-Ws 388. The public trust doctrine (RSA 481.1) concept of "cumulative impact" would become an issue during the permit process.
d. DES has issued in the Seacoast area a large commercial groundwater permit with a restriction that reduces pumping rate based on government declared drought levels. This summer, that permitter has been restricted to pumping 50% of the DES permit authorized withdrawal capacity.
e. Nearby Prime Wetlands and the Lamprey River have adverse impact requirements that do not allow for mitigation, but rather require stopping any activity that is observed to start an adverse impact. These more restrictive requirements supersede the requirements of Env-Ws 388 that permit mitigation.

f. The 100 acre site for the wells and bottling plant is limited to 60 trucks that can enter and leave the site within a 24 hour period, Monday through Saturday inclusive, with no trucking on Sunday. If all 60 trucks were transporting bottled water off site, it has been calculated that 316,000 gpd would be the maximum bottled water transportation capacity. This calculation of 316,000 gpd will be downsized once it is known how many trucks will be making deliveries to operate the facility, and how many will be removing the projected 7,150 gpd of wastewater. As the bottling plant is planned for seven (7) day a week operation, the adjusted 316,000 gpd will have to be further downsized 17% due to the Sunday trucking prohibition.

g. A corollary to the preceding problem is the inability by truck to accomplish bulk transfer of water onto the site to facilitate meeting a proposed bottling lines' design capacity. This is obviously due to the 60 truck a day, six day work week restriction.

B. Available NAFTA Remedies

Remedies are available for the business problems described above. These NAFTA enabled remedies fall into two categories. First, a means to maintain onsite water withdrawal rates once DES authorizes production pumping for the ten-year period. A supporting scheme would enable a sufficient number of trucks to transport the production of 351,00 gpd of bottled water to market. Second, a method to increase water availability to the bottling plant to realize the 1,026,000 gpd full production potential of the bottling lines, while concurrently maintaining for this method the remedies previously mentioned. The phrase "NAFTA partner country xxx company" can be recognized for the purpose of this Comment as a business entity or entities set up by the financiers of USA Springs to take legal advantage of the business protection provisions of NAFTA. Details follow.

a. The bottled water could be exported to a NAFTA partner country (it may not be the ultimate end user), and NAFTA export flow of the bottled water established for a 36-month period. Once the NAFTA export flow is in effect for the minimum time period, issues such as environmental impact or drought conditions requiring pumping reduction or stoppage would be subject to the supranational requirements of NAFTA. In this scenario, either export flow would be maintained, i.e. no change in pumping volume, or a NAFTA claim could be filed and "Proportionality" provisions cited. A NAFTA Tribunal ruling against the U.S. would likely entail, and as a minimum, could include compensation based on a calculation of future lost profits over the remaining ten years of the permit. The U.S. government would at the outset find itself in the position as the Disputing Party (defendant), attempting to strong-arm the state into retracting their adverse impact finding in order that a NAFTA claim not proceed into a Tribunal dispute resolution.

b. An U.S. trucking concern will in all likelihood be transporting bottled water from the site under the previously stated limitations established by the Nottingham Zoning Board of Adjustment. A NAFTA partner country trucking company could request of the Nottingham Zoning Board of Adjustment, under the NAFTA "National treatment" provisions, identical truck access to the bottling plant in order to compete with their U.S. counterparts. "Fair and equitable treatment" would entitle the NAFTA partner country trucking company the same access as the domestic trucking company. By this method, sufficient trucks are now available to transport any amount of bottled water from the site. Alternately, if disallowed, a NAFTA claim would have the effect of blocking Nottingham from enforcing its regulations as lawfully empowered by the state.

c. With the transport of the bottled water solved, bringing bulk water on site by truck needs to be resolved. The same scenario described above would be played out, only in this situation, the Nottingham Zoning Board of Adjustment could be forced again into allowing even more trucks on site, in this case for the delivery of bulk water. The domestic truck count would remain at a maximum of 60, with the additional trucks coming from NAFTA partner country trucking companies. Alternately, if disallowed, a NAFTA claim would have the effect of blocking Nottingham from enforcing its regulations as lawfully empowered by the state.
d. A NAFTA partner country water company could request of Barrington the same zoning relief that Nottingham granted in order to be able to expand the water withdrawal operation into the 1400+ acres of land in Barrington. Under the "National treatment" provisions, the zoning variance precedent that Nottingham granted would establish the legal justification with respect to international trade for asking for the same, equitable treatment. Lease of the 20 acre piece involved with the sanitary area to a NAFTA partner country water company would be subject to the same zoning variance rationale just described. Alternately, if disallowed, a NAFTA claim would have the effect of blocking Barrington from enforcing its regulations as lawfully empowered by the state.
e. A NAFTA partner country water company could request a large groundwater withdrawal permit from DES. They would select from the approximately 55 individual lots that make up the 1400+ acres an appropriate number of lots for permitting purposes. The DES permit deliberations and decision making would be encumbered by the knowledge that failure to grant a permit at least as favorable to any that was granted to USA Springs would be in conflict with the "National treatment" provisions. During deliberations, DES would likely set aside any consideration of adverse impact as a result of "cumulative impact". Failure to grant a permit as favorable as any granted to USA Springs would likely trigger a NAFTA claim that would have the effect of blocking the state from enforcing its large groundwater withdrawal permitting regulations.

IV. DES Dilemma

A. Suitability of Countervailing DES Options

Each of the previously described, five, independent, available applications of NAFTA remedies, regardless of how blatantly obvious they are to overcoming or skirting state and municipal requirements, could result in a favorable ruling for a NAFTA partner country company if their use is challenged at the state or municipal level. Assuredly, any Tribunal ruling is unable to require a change to the policy, statute, rule or municipal requirement that would have brought about a NAFTA claim. However, any NAFTA Tribunal settlement in favor of a NAFTA partner country company would, as a minimum, consider monetary compensation. DES theoretically would have several ways to block the NAFTA partner country companies suggested remedies, however they will not work.

a. DES can not count on NAFTA going away in the near term. It was noted by way of conversation that the extension of NAFTA to include 34 nations in a trade and investment pact called Free Trade Area of the Americas (FTAA) would make unlikely any substantial changes in NAFTA. It was also related that in Washington circles, the opinion is that FTAA draft authoring that is underway has not measurably changed the regulatory emphasis regarding the environment. This information agrees with published material. As the FTAA is scheduled for signing in 2005, it appears that in the intervening time period, DES can not count on NAFTA incorporating a positive breakthrough environmental policy shift. All of the NAFTA issues could be inoperative as a result of earlier actions taken by the State of NH in accordance with NAFTA Article 1803. DES as the prime benefactor of such an action is unaware of any such action having taken place, and conversation with the NH State NAFTA point-of-contact did not result in at that time a definitive recall of any such action by NH.
b. DES could approve the large groundwater withdrawal permit and shift to another state agency the issue of adverse trade impact due to NAFTA trade provisions. DES is charged by NH RSA 481.1 to comply with "The **maximum public benefit** shall be sought...and the **overall economic**, recreational and social **well-being** of the people of the state". [emphasis added] In the case of denial of a large groundwater withdrawal permit, see scenario of Part IV.e, the settlement for a ten-year loss of profits could be $1.825 to $6.570 billion, using profit projections for a similar size bottling operation proposed in Michigan. Applying this one example, it appears that because of RSA 481.1, DES squarely owns the NAFTA dilemma on economic merit alone.
c. DES could rely on case precedent to direct, if not force, a favorable Tribunal ruling. The concern expressed in the filings for the Methanex Corporation case should discourage this as being at all a viable answer. Reliance on a World Trade Organization case settlement for precedent would be difficult given the decision in the Tuna-Dolphin case.
d. DES could rely on their being persuasive to a NAFTA Tribunal should a claim be lodged. The NAFTA dispute resolution process would be between the U.S. and the NAFTA partner country company that filed the claim. At best, DES could ask of the Tribunal that it be allowed to present an *amicus* brief as a third party. With the U.S. as the Disputing Party, U.S. trade policy and trade negotiating initiatives can be expected to color the U.S.' conduct of the Tribunal proceedings.

B. The DES Challenge

The proposed NAFTA remedies are now safely inside Pandora's box. All of these NAFTA remedies have been described to be operative over the ten-year permit period, therefore, DES has at least an unmitigatable economic adverse impact that requires them to deny USA Springs' large groundwater withdrawal permit. If DES grants the permit to USA Springs for a large groundwater withdrawal, the public should get clear and convincing reasoning from DES, in writing, as to how each of the five proposed NAFTA remedies would be prevented from happening.

REFERENCES

www.des.state.nh.us/dwspp/adopt_388.pdf

Letter dated 29 July 2001, Conklin to New Hampshire Department of Environmental Services

Letter dated 13 September 2001, Lamprey River Advisory Committee, Judith T. Spang, Chair, to New Hampshire Department of Environmental Services

AN UNPLANNED DEVELOPMENT: NAFTA CAN FOIL WATER POLICY

www.naftaclaims.com

www.canadians.org/blueplanet/publications/eng_bluegold-thethreat.html

Conversations with Andrea Durbin, National Campaigns Director for Greenpeace USA, and John Audley, Director of the Trade, Environment and Development Project at the Carnegie Endowment for International Peace

Conversations with Hilary French, Director of the Global Governance Project at the Worldwatch Institute

www.ofah.org/acrobat/waterresources.pdf

Huenemann, Jon. "On the Trade Policymaking Process in the United States"

www.wcel.org/wcelpub/7512.html

www.wcel.org/wcelpub/1999/12968.html

Dendauw, Isabel. "The Great Lakes Region and Bulk Water Exports – Issues of International Trade in Water"

www.schoolnet.ca/future/teacher/publications/water/nafta/content.htm

Sporhouse v. Nebraska ex rel. Douglas

www.ifg.org/ftaawater.html

www.waterbank.com/Newsletters/nws18.html

www.waterbank.com/Newsletters/nws38.html

Weiler, Todd. "Fair and Equitable Treatment for Investments: Some Old Cases and Some New"

www.policyalternatives.ca/publications/articles/article242.html

www.commondreams.org/headlines01/0705-03.htm

www.cela.ca/water/w-opin.htm

www.gasandoil/goc/speeches/ect-arb-nafta2001.htm

www.mindfully.org/WTO/NAFTA-Powerful-Secret.htm

www.canadians.org/campaigns-tradepub-ftaa-bigbrother.html

www.wcel.org/wcelpub/1999/12406a.html

Weiler, Todd "Trade Ministers Say the Darndest Things"

www.eli.org/elma/pdfs/31.10646.pdf

AN UNPLANNED DEVELOPMENT: NAFTA CAN FOIL WATER POLICY

"Questions Remain After B.C. Supreme Court Upholds Metalclad Victory in Mexico Case". *Mexican Forecast* Volume X, Number 9

"Preliminary Initial Hydrogeological Report for USA Springs Proposed Bottled Water Wells and Spring" Revised Addendum 2, December 2001, Geosphere Environmental Management, Inc.

Conversations with Carol Reilly, Town Administrator, Town of Barrington, New Hampshire

New Hampshire Department of Environmental Services Wetlands Violations File Numbers: 2001-00716, 1993-1218 and 1993-1863

www.mlui.org/projects/enviropolicy/perrierpermit.asp

www.des.state.nh.us/rules/envws389.pdf

www.mv.com/ipusers/nearl/nottingham-nh/ZB/2001/20010501_zbmin.txt

Letter dated 22 January 2002, Gove Environmental Services to Nottingham Planning Board

Conversations with Dawn Wivell, New Hampshire NAFTA Point-of Contact and Director, New Hampshire Office of International Commerce

United States-Restrictions on Imports of Tuna. 1991. Unadopted GATT Dispute Settlement Panel Report, submitted to the Parties 16 August 1991. International Legal Mat. 30:1594

December 14, 2002

New Hampshire Department of Environmental Services
Water Supply Engineering Bureau
Attn : Brandon Kernen, P.G.
Hydrologist
PO Box 95, 6 Hazen Drive
Concord, NH 03302 – 0095

Dear Mr. Kernen,

The following additional input regarding the proposed large groundwater extraction by the USA Springs Bottled Water Group in the Town of Nottingham, NH, is from SAVEOURGROUNDWATER.ORG (SOG). This is in accordance with the Department of Environmental Services (DES) extension of the public comment period.

I appreciate the prompt response from Assistant Attorney General Richard Head to the SOG letter of 2 December 2002. His letter raises interesting points, draws conclusions, and offers guidance that warrants a response. Needless to say, if the issue of international trade impact on a large groundwater withdrawal permit process had State of New Hampshire regulatory precedent, our collective efforts regarding this issue would not be necessary. Given that, below is a response by subject area to Attorney Head's letter:

a. Why the SOG concern raised in the Comment titled, *An Unplanned Development: NAFTA Can Foil Water Policy,* is significantly different from the DES question posed to the New Hampshire Department of Justice and reiterated in Attorney Head's response (Informal Opinion) dated 17 April 2002.
b. A review of both the Comment and Informal Opinion to glean out areas of commonality for comment.
c. Discoverable factors in the permit process that affect DES engineering decision making with respect to international trade impact.
d. A response to other aspects of Attorney Head's letter.

Differences. The SOG Comment was concerned with multiple NAFTA business remedies available to business ventures interested in extracting New Hampshire groundwater and bottling it for export. The NAFTA remedies were described in the context of the specific issues and available remedies considered usable by USA Springs. The remedies, however, can be easily understood to be adaptable across the State to any other future large groundwater withdrawal proposal intended to support a business venture to export bottled water. The Comment clearly states that the SOG issue is not the initial question posed by DES, i.e. do international trade agreements restrict DES' ability to withdraw or modify a large groundwater withdrawal permit, but rather, the economic consequences of a NAFTA Tribunal ruling on such a DES action.

Additionally, the Comment identifies other NAFTA remedies that could come into play in the area of zoning, local planning variances, RSA 481.1 directed water policy, and New Hampshire transportation and environmental regulations. All of these proposed remedies include the potential for NAFTA Tribunal action should Federal pressure not result in the removal of an offending governmental requirement. While it is recognized that the Informal Opinion had to answer the originally posed DES question, as narrowly worded as it was, the Comment argument should now give credence to the existence of a broader NAFTA concern.

Areas of Agreement. Both the Comment and the Informal Opinion recognize that NAFTA will not affect DES' ability to withdraw or modify a permit in accordance with Envs-Ws 388. It is worth pointing out that the Informal Opinion describes some of the very NAFTA particulars on which the Comment's concerns are based.

The Tuna-Dolphin case was cited in both documents, thereby recognizing that this 1991 case establishes that the WTO does not typically consider environmental protection regulation as a valid reason for instituting trade restrictions. The Informal Opinion (see page 2, paragraph 4) reinforces that understanding by stating, "... Chapter 9 of NAFTA does not permit the extraterritorial environmental impact of PPMs to justify PPM based trade restrictions." The Comment (see Section IV.A.c) noted that the Tuna-Dolphin case precedent made unworkable one of DES' possible countervailing options.

Both documents recognize that the narrow conclusions of the Informal Opinion (see page 2,paragraph 5 and page 3 paragraph 2) are applicable, not withstanding having previously stated that the full scope of NAFTA impact on the permit process identified in the Comment has yet to be addressed.

Both documents recognize the unpredictability of previous Tribunal deliberations. Noted in the Informal Opinion are these examples, (see page 3,part C, paragraph 3), "the rules allow for a confidential process with the potential for inconsistent results.", (see page 5, paragraph 2), "Unfortunately, the Tribunal did not provide any legal analysis to support its decision.", and (see page 6, paragraph 4), "... although the Tribunal does not rule out that possibility." The Comment draws particular attention to the action of previous Tribunals, noting the importance of the filings in the ongoing Methanex case (see Section IV.A.c) as particularly relevant. Major uncertainty with NAFTA legal action is jointly recognized.

Engineering Decision Factors. The DES Water Supply Engineering Bureau not only has Envs-Ws 388 to implement, but must also be in compliance with other statutory directives, including RSA 481.1. It would be extremely convenient if the engineering decision required by the permit necessitated only consideration of the issues surrounding this immediate time period of the permit processing. A short time line would allow the now stakeholder identified thorny issues, e.g. cumulative impact (public trust doctrine), future use of water, and international trade impact, to be at best, shunted off for clarification and possible action by others. But engineers are all too frequently confronted with less than great tools on which to make obligatory decisions. Since regulatory requirements and RSA policy have parameters of both a technical and planning nature that extend into the future, and because language like "maximum public benefit" and "overall economic ... well-being of the people of the state" applies, it is evident that a straight forward application of life cycle engineering to the DES decision process is appropriate. It is of benefit to all that both the above language and the principles of life cycle engineering are available to DES in this case. So despite the Informal Opinion suggestion of passing this issue on to a legislative forum that might represent a better authority, the reality of a required DES engineering decision weighing all identified relevant factors remains and must be undertaken.

Other Aspects. Suggesting that the DES decision will be based upon New Hampshire law is understood to include those requirements that originate and are administered at the Federal level. For example, New Hampshire is to be commended for participating in the Massachusetts' Burma Law case, unfortunately, the states' rights argument presented did not prevail in this international trade issue recently decided by the U S Supreme Court.

The Comment and the information provided above are intended to provide DES with the full scope of the available impact of international trade agreements. Highlighted is DES' pivotal role in preventing NAFTA from jeopardizing New Hampshire's self-governance as a result of USA Springs' proposed business venture. Attorney General McLaughlin's recognition of the overreach of international trade agreements will hopefully be the catalyst for providing appropriate legal specifics to DES.

Once again, we request a meeting with you at your earliest convenience.

Sincerely,

SAVEOURGROUNDWATER.ORG
Technical Committee
Steven B. Conklin, PE

cc: Selectmen and Conservation Commission, Barrington
Planning Board, Barrington
Mark Beliveau
Selectmen and Conservation Commission, Nottingham
Planning Board, Nottingham
Tom Ballestero
Gove Environmental Services
Selectmen and Conservation Commission, Northwood
Jennifer Patterson
Richard Head
George Musler
Janet Wall
Judith Spang
Deanna Rush
Charles Weed
Senator Caroline McCarley
Iris Estabrook
Richard Green
Governor Jeanne Shaheen
Susan Arnold
John E. Sununu
California State Senate Select Committee on International Trade Policy, Anna Blackshaw
Georgetown University Law Center, Harrison Institute for Public Law, Robert Stumberg
American Friends Service Committee, Arnold Alpert
Alliance for Democracy and Sierra Club, Ruth Caplan

Herald Sunday

OPINION

June 30, 2002

H2O: Hot commodity in global market

Communities must do their best to keep companies and interests local

By Arnie Alpert

Drought, E. coli bacteria, and vandalism have put the Aquarion Co., the new owners of the Hampton Water Works, into the local news in recent weeks.

Aquarion acquired the local water utility earlier this year in a deal with its former owner, the American Water Works Co. But one would have to be a close reader of the news to know that Aquarion itself is owned by the Kelda Group, a British firm, one of the largest water companies in the world.

New Hampshire's water supplies, and the ability of local residents to have a safe and affordable supply of water, are now at play in a global market.



A few miles from Hampton, a new company called U.S.A. Springs plans to pump as much as 439,000 gallons of groundwater a day from land in Nottingham and Barrington, bottle it, and sell it in Europe. Bottled water is now a $7 billion-a-year industry, dominated by Nestle, Coca Cola, and Pepsi.

With a gallon of water costing more than a gallon of gasoline in many parts of the United States, it is no wonder Gov. Jeanne Shaheen called water "the gold of this century."

Water is a hot commodity on Wall Street. According to the Christian Science Monitor (May 13), water company stocks have beat market averages over the past seven years. "The high price of water stocks is partly the result of drought conditions," said staff writer Guy Halverson, and partly because "a number of U.S. water utilities have been gobbled up through mergers and consolidations, with major European firms also coming to the United States to buy water systems."

Greater Nashua's water company, Pennichuck, has just received a $106 million purchase offer from Philadelphia Suburban, the second largest investor-owned water utility in the United States. It, in turn, is 17 percent owned by Vivendi, a huge French conglomerate.

According to Shaheen, "It is critical we do everything we can to protect water."

But under the rules of the global economy, the ability of New Hampshire communities and governments to protect water may be limited.

Trade rules and trade rulers

Water is already considered a "good" under the North American Free Trade Agreement (NAFTA) and World Trade Organization (WTO) systems of trade rules and enforcement mechanisms. This designation means, for starters, that any rules that prevent or restrict international trade in water would be considered unfair barriers to trade.

See WATER, Page F3

PORTSMOUTH HERALD, PORTSMOUTH NH

Water is a hot commodity in the global market

WATER, from Page F1

If U.S.A. Springs were owned by a foreign company, a decision to stop or limit its bottling plant could bring the U.S. government before a trade tribunal. There, if limits on groundwater extraction or sale were deemed unfair trade practices, the United States could be forced to pay substantial penalties or repeal the offensive regulations.

For the time being, U.S.A. Springs is a New Hampshire corporation, which cannot use NAFTA to fight local or state government rulings. But if U.S.A. Springs were sold to a Canadian company, NAFTA rules would apply.

If U.S.A. Springs were sold to any foreign company, local regulations could be trumped by WTO rules, including the General Agreement on Trade in Services (GATS).

WTO and NAFTA rules constrain the ability of governments to set limits on the amount of a product that gets exported. The rules are so new that exactly how they will be interpreted is unknown.

And the trade rules keep changing. Negotiation of the Free Trade Area of the Americas is under way. WTO negotiations are ongoing, but their aim is the continued relaxation of government restrictions on trade, including trade in water.

Prudent to be alarmed

The notion that international trade rules could be used to force the privatization and deregulation of water supplies may sound like scare-mongering. But already a Canadian chemical company is using NAFTA rules to demand nearly a billion dollars in damages because California decided to phase out MTBE, a gasoline additive which was found to be polluting the state's water and which has also been found in New Hampshire wells and lakes.

Governments that are forced to pay polluters to make them stop will think twice about environmental protection. We are entering a new era; it is only prudent to be alarmed.

New Hampshire law says ground and surface water are held in "public trust." The state has the obligation to protect it from unreasonable use. But the notion of "public trust" is under assault by global forces that seek to treat everything as a commodity, on sale to the highest bidder.

"Water is one of our most important natural resources, the one all life depends on," says Denise Hart, a Barrington resident. She is not alone in her belief. Save Our Groundwater (www.saveourgroundwater.org) is mobilizing people in the Seacoast area and beyond to oppose U.S.A. Springs before local and state regulatory bodies.

In northern California, local activists are opposing a plan to pipe river water into giant baggies and tow them to San Diego. In Bolivia, thousands of poor people took to the streets to stop Bechtel Corp. from taking over a local water company. Organizations, including the American Friends Service Committee and the Alliance for Democracy, are studying the impact of global trade rules on the ability of local governments to safeguard their water supplies.

By acting together we can protect our future access to safe, clean and affordable water.

Arnie Alpert is New Hampshire program coordinator for the American Friends Service Committee, a Quaker organization supported by people of many faiths who believe in peace, social justice, and nonviolence.

Voting Sheets

HOUSE COMMITTEE ON STATE-FEDERAL RELATIONS AND VETERANS AFFAIRS

EXECUTIVE SESSION on HR 7

BILL TITLE: **urging increased consideration and preservation of local authority in international trade and investment agreements.**

DATE: February 11, 2003

LOB ROOM: 306

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Easson

Seconded by Rep. Hawkins

Vote: 12-1 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Dennis H. Fields, Clerk

HOUSE COMMITTEE ON STATE-FEDERAL RELATIONS AND VETERANS AFFAIRS

EXECUTIVE SESSION on ~~Wed~~ Thurs - 2

BILL TITLE: urging increased consideration and preservation of local authority in international trade and investment agreements

DATE: 2/11/2003

LOB ROOM: 306 - ~~KOB~~

Amendments:

Sponsor: Rep. _____ OLS Document #: _____ Adopted/Failed

Sponsor: Rep. _____ OLS Document #: _____ Adopted/Failed

Sponsor: Rep. _____ OLS Document #: _____ Adopted/Failed

Motions: OTP, OTP/A, (ITL) Interim Study (Please circle one.)

Moved by Rep. Ericson

Seconded by Rep. Watkins

Vote: 12 yeas (Please attach record of roll call vote.)
1 nays

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. _____

Seconded by Rep. _____

Vote: _____ (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: _____

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Denise M. Tilton, Clerk

OFFICE OF THE HOUSE CLERK 2003 SESSION

STATE-FEDERAL RELATIONS AND VETERANS AFFAIRS

Bill #: HR=7 Title: urging increased consideration and preservation of local authority in international trade and ~~agreements~~ investment agreements

PH Date: 1/28/2003 Exec Session Date: 2/11/2003

Motion: ITL Amendment #:

MEMBER	YEAS	NAYS
Coughlin, Pamela D. Chairman		
Guay, Lawrence J. V Chairman	ABSENT	
Fields, Dennis H	/	
Priestley, Anne K	ABSENT	
Albert, Russell A	/	
Balcom, John L	ABSENT	
Lessard, Rudy	/	
Marple, Richard	ABSENT	
Easson, Timothy E	/	
Hawkins, Ken	/	
Headd, James F	/	
Kennev, Bettie D	/	
Kerns, J Edward	ABSENT	
McCann, Richard A	/	
McElroy, Henry W	/	
Heon, Richard F	/	
McDonough-Wallace, Alice T	/	
Shaw, Barbara E	ABSENT	
Sweeney, Cynthia P	-	/
Sullivan, Peter M	/	
Batchelder, Robert C	ABSENT	
	12	/

TOTAL VOTE:
Printed: 1/6/2003

Committee Report

MAJORITY
COMMITTEE REPORT

COMMITTEE: **State-Federal Relations and Veterans Affairs**

BILL NUMBER: **HR 7**

TITLE: urging increased consideration and preservation of local authority in international trade and investment agreements.

DATE: February 11, 2003 CONSENT CALENDAR YES ☐ NO ☒

☐ OUGHT TO PASS

☐ OUGHT TO PASS WITH AMENDMENT

☒ INEXPEDIENT TO LEGISLATE

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

While the concern for state and local sovereignty is noteworthy, this resolution jumps to a conclusion while seeking a committee to study the issue further. The majority also felt that states and localities are protected by the Eleventh Amendment and the fact that previous decisions by international bodies have no teeth in the United States.

Vote 12-1.

Rep. Timothy E. Easson
FOR THE MAJORITY

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

State-Federal Relations and Veterans Affairs

HR 7, urging increased consideration and preservation of local authority in international trade and investment agreements. **INEXPEDIENT TO LEGISLATE**

Rep. Timothy E. Easson for State-Federal Relations and Veterans Affairs: While the concern for state and local sovereignty is noteworthy, this resolution jumps to a conclusion while seeking a committee to study the issue further. The majority also felt that states and localities are protected by the Eleventh Amendment and the fact that previous decisions by international bodies have no teeth in the United States. **Vote 12-1.**

Majority

COMMITTEE REPORT

COMMITTEE: State Federal Relations & Veterans Affairs

BILL NUMBER: ~~HCR 2~~ HR 2

TITLE: urging increased consideration and preservation of local authority in international trade and investment agreements

DATE: 2/11/2003 CONSENT CALENDAR: YES ☐ NO ☒

☐ OUGHT TO PASS

☐ OUGHT TO PASS W/ AMENDMENT

☑ INEXPEDIENT TO LEGISLATE

☐ RE-REFER

☐ INTERIM STUDY (Available only 2nd year of biennium)

Amendment No. _____

STATEMENT OF INTENT:

~~While the~~ While the concern for state and local sovereignty is noteworthy, this resolution jumps to a conclusion while seeking a committee to study the issue further. The ~~committee~~ majority also felt that states and localities are protected by the Eleventh Amendment and the fact that previous decisions by international bodies have no teeth in the United States

COMMITTEE VOTE: 12-1

- Copy to Committee Bill File
- Use Another Report for Minority Report

RESPECTFULLY SUBMITTED,

Rep. Timothy E. Egan

For the Committee MAJORITY

poc

Rev. 07/30/99

MINORITY
COMMITTEE REPORT

COMMITTEE: **State-Federal Relations and Veterans Affairs**

BILL NUMBER: **HR 7**

TITLE: urging increased consideration and preservation of local authority in international trade and investment agreements.

DATE: February 11, 2003 CONSENT CALENDAR YES ☐ NO ☒

☒ OUGHT TO PASS

☐ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

The minority believes that this resolution addresses many valid concerns raised by the expansion of international trade agreements. The needs and concerns of the people affected must be heard in all trade agreement negotiations.

Rep. Cynthia P. Sweeney
FOR THE MAJORITY

Original: House Clerk
cc: Committee Bill file

State-Federal Relations and Veterans Affairs

HR 7, urging increased consideration and preservation of local authority in international trade and investment agreements. **OUGHT TO PASS**

Rep. Cynthia P. Sweeney for State-Federal Relations and Veterans Affairs: The minority believes that this resolution addresses many valid concerns raised by the expansion of international trade agreements. The needs and concerns of the people affected must be heard in all trade agreement negotiations.

Minority

~~COMMITTEE~~ REPORT

COMMITTEE: State and Federal and Veterans Affairs

BILL NUMBER: HR 7

TITLE: URGING INCREASED CONSIDERATION AND PRESERVATION OF LOCAL AUTHORITY IN INTERNATIONAL TRADE AND INVESTMENT AGREEMENTS

DATE: 2-11-03 **CONSENT CALENDAR:** YES ☐ NO ☒

- ☐ OUGHT TO PASS
- ☐ OUGHT TO PASS W/ AMENDMENT
- ☐ INEXPEDIENT TO LEGISLATE
- ☐ RE-REFER
- ☐ INTERIM STUDY (Available only 2nd year of biennium)

Amendment No. _____

STATEMENT OF INTENT:

The minority believes that this resolution addresses many VALID CONCERNS RAISED by the EXPANSION of INTERNATIONAL TRADE AGREEMENTS. The needs and CONCERNS of the People affected must be heard in all TRADE agreement negotiations.

COMMITTEE VOTE: VOICE

- Copy to Committee Bill File
- Use Another Report for Minority Report

RESPECTFULLY SUBMITTED,

Rep. Cynthia Sweeney

For the ~~Committee~~ Minority

Rev. 07/30/99