

The Alph Ship Canal Project

Utopia and Xanadu are two Asian states whose territories are separated by the river Alph. For decades, changing governments in the two capitals have discussed the prospect of constructing a ship canal on a narrow stretch of the river that separates the two territories. During the latest round of negotiations in November 2015, the junior foreign minister of Xanadu and the Utopian minister of foreign trade finally reached an agreement on the construction of a ship canal, and in January 2016, the agreement was approved by parliament in both states. In late February 2016, the work on the canal commenced.

In the course of the summer of 2016, however, the Utopian newspaper “Utopian Herald” began to publish a series of highly critical articles on the environmental and financial implications of the construction of the canal. Among other things, the newspaper revealed that the Utopian government had underestimated the consequences of the construction for the very rare and endangered “blue sturgeon” that migrates along the river Alph. The fish is the national symbol of Utopia. Further, the river Alph is sacred to the people of Kubla Khan, an indigenous group who live along its banks. In March 2016 the Utopian Parliament - impressed by the actions of the New Zealand government in granting legal personhood to the river Tu Urewera - passed a law to confer environmental protections “equal to human rights” onto the river Alph.

In the middle of August 2016, with reference to the stories published in the “Utopian Herald” and growing protests from the indigenous people of Kubla Khan - who claimed to have been displaced from the river - the Utopian prime minister informed the prime minister of Xanadu that Utopia could no longer support the construction of the canal and that he, as the prime minister of Utopia, had decided to annul the agreement. According to the prime minister, Utopia would never have agreed to the construction of the canal if they had only known at the time what they know now. He further argued that, under the Vienna Convention on the Law of Treaties, his state was not bound by the terms of the agreement. The prime minister also noted that, contrary to what was envisaged, the environmental implications of the construction of the canal were so severe that the agreement violated a norm of a *jus cogens* character and was therefore void. Further, that the displacement of the people of Kubla Khan and the damage to the River Alph constituted a breach of a fundamental Utopian statute that rendered the treaty void. Xanadu brings the matter before the International Court of Justice. Utopia indicate their intention to robustly defend the case.