



## BC ASSEMBLY OF FIRST NATIONS

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**BCAFN SPECIAL CHIEFS ASSEMBLY**  
**March 9 & 10, 2022**  
**Online via Zoom**

**Draft Resolution 14/2021**

**SUBJECT: CALL FOR A MORATORIUM ON ALL PENDING AND FUTURE WATER BOTTLING LICENSES IN BC**

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**MOVED BY: CHIEF ROY FLETCHER, HIGH BAR FIRST NATION**

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**SECONDED BY: CHIEF DON TOM, TSARTLIP FIRST NATION**

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**DECISION: CARRIED**

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### **WHEREAS:**

A. Water is an essential element for all life on earth and our most sacred and vital resource which our inherent Aboriginal Title, Rights and Treaty Rights depend upon;

B. since time immemorial, First Nations have been stewards of our lands and waters and have an inherent right to protect and manage them;

C. First Nations have both inherent and constitutionally protected Aboriginal and Treaty rights to water and the Province of British Columbia has a duty to consult with Aboriginal peoples when it contemplates any decision that may adversely impact our Aboriginal or Treaty rights;

D. in 2016, The BC Ministry of Environment reported that over 5000 water sources in BC are at risk of water shortages or restrictions. This number will continue to rise as cumulative impacts from environmental degradation and the global warming increase throughout the Province;

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E. First Nations in BC continue to lack access to safe and clean drinking water on their reserves. The negative impacts of climate change are imminently threatening water security across BC and First Nations communities and their access to safe drinking water will be disproportionately impacted by these threats;

F. BCAFN Resolution 06(k)/2011 directs the BC Regional Chief to work with the National Chief to instruct the Provinces and Canada that mutually negotiated water consultation protocols between individual First Nations and the provincial government must be a prerequisite before all future water rights are assigned and that adequate consultations between First Nations and the provincial governments result in up-front watershed planning that considers the cumulative impacts on First Nations' lands and resources;

G. BCAFN Resolution 03(f)/2018 mandates the BCAFN Chiefs in Assembly work with the First Nations Summit and the Union of BC Indian Chiefs, as the First Nations Leadership Council, to call upon the BC provincial government to immediately co-develop a framework for, and to provide adequate resources to, First Nations to appropriately engage on the regulations pertaining to the *Water Sustainability Act* which have high potential for significant and direct impact on Aboriginal Rights and Treaty Rights;

H. BCAFN Resolution 06/2021 directs the BC Regional Chief to urge the Provincial Government to recognize and affirm First Nations inherent rights to manage and protect our waters and to seek the free, prior and informed consent with all First Nations rightsholders on matters related to water legislation, policy, strategies and action plans and provide adequate and sustainable resources for First Nations communities to meaningfully contribute to these initiatives;

I. the *Declaration on the Rights of Indigenous Peoples Act* has been unanimously adopted by the BC Government which affirms and commits to implementing all articles under the *United Nations Declaration on the Rights of Indigenous Peoples* including but not limited to:

- Article 18: Indigenous Peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to obtain and develop their own indigenous decision-making institutions.
- Article 19: States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.
- Article 25: Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or

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otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

- Article 26:
- (1) Indigenous peoples have the right to the lands, territories, and resources which they have traditionally owned, occupied or otherwise used or acquired.
  - (2) Indigenous peoples have the right to own, use, develop and control the lands, territories, and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.
  - (3) States shall give legal recognition and protection to these lands, territories, and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the Indigenous peoples concerned.

J. through mandate letters released in December 2020, Premier Horgan directed the Ministry of Indigenous Relations and Reconciliation to "facilitate partnership with First Nations around key decisions on regional land and resource use allocation through evolving shared decision making, building on the Declaration on the Rights of Indigenous Peoples Act to provide a clear, stable and sustainable path for everyone to work together";

K. according to a report published in June 2021 by the University of Victoria Environmental Law Centre titled, "[Water for the Future: Why BC need an Immediate Moratorium on New Water Bottling Licences](#)" there are currently six (6) pending water bottling licences throughout BC and at least five (5) more have been identified by First Nation communities that are not yet reflective in the BC Government's referral database;

L. the report also identified that the current water rates set by the BC Government do not cover the administrative processes required to issue licences which equal to less than \$.01 per bottle (or a maximum of \$2.25 per million litres) intended for either domestic sales or exports and 0% of that revenue is distributed back to First Nations communities whose traditional territories are being extracted from;

M. the Report concludes with five (5) recommendations:

1. Place a moratorium on new water licenses for water bottling.
2. Extend the moratorium on new water licenses for water bottling purposes at least until watershed-based governance is in place.

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3. Restrict water licenses for water bottling purposes to short-term licenses only.
4. Obtain the consent of Indigenous governing organizations before issuing new water licenses.
5. Charge a higher water rental for water extraction

N. under the *Water Sustainability Act* [Section 22], the First in Time First in Right allocation system prioritizes water usage rights based on the license issue date. This system affords licensees greater water access and usage rights over First Nations rightsholders.

**THEREFORE BE IT RESOLVED THAT:**

- A. The BCAFN Chiefs-in-Assembly support the findings and recommendations in the *Water for Future* Report prepared by the University of Victoria Environmental Law Centre and direct the Regional Chief to call on the BC Government to:
  1. Place an immediate moratorium on all new and pending water bottling licenses;
  2. commit to working with First Nations rightsholders on implementing the remaining report recommendations through watershed-based co-governance approaches; and
  3. recognize First Nations as the first water users in BC and affirm Aboriginal and Treaty rights to water as priority rights within the First in Time, First in Right system under the *Water Sustainability Act*.

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