



## BC ASSEMBLY OF FIRST NATIONS

1004 Landooz Road  
Prince George, BC V2K 5S3  
Website: [www.bcafn.ca](http://www.bcafn.ca)

**BCAFN ANNUAL GENERAL MEETING**  
**September 19-21, 2023**  
**Hybrid - In person & online via Zoom**

**Resolution 27/2023**

**SUBJECT: UPHOLDING AND STRENGTHENING FIRST NATIONS WATER RIGHTS IN  
FEDERAL LEGISLATION**

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**MOVED BY: CHIEF DAN MANUEL, UPPER NICOLA INDIAN BAND**

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**SECONDED BY: KUKPI7 ROSANNE CASIMIR, T'KEMLÚPS TE SECWÉPEMC**

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**DECISION: CARRIED**

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### **WHEREAS:**

A. The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) was adopted by the Government of Canada and the Province of British Columbia without qualification and passed legislation affirming:

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 maintain 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.

B. The Government of Canada has committed to introducing new legislation following the repeal of the *Safe Drinking Water for First Nations Act* on June 23, 2022, and in alignment with the legal  
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obligations required by the 2021 Safe Drinking Water for First Nations Class Action Settlement.

C. Under the United Nations Declaration Act Action Plan, the following actions are identified:

#17. Continue efforts to advance water and wastewater service transfer to First Nations communities and support self-determined service delivery models in First Nations communities. This includes advancing development and introduction, in consultation with First Nations, of new proposed First Nations drinking water and wastewater legislation that includes pathways to protect source water and legally enforceable safe-drinking water protections on First Nations lands comparable to those in place in provinces and territories.

#49. Create a Canada Water Agency and advance the modernization of the *Canada Water Act* to reflect Canada's freshwater reality, including climate change and Indigenous rights.

D. Canada's public consultative draft legislation, *An Act respecting drinking water, wastewater, and related infrastructure on First Nation lands* does not meet First Nations requirements identified through AFN Resolution 23/2022, mandates provided by First Nations over the last ten years, and responses from regional engagements, including BCAFN's Water Engagement on February 27, 2023.

E. As part of Budget 2023, Prime Minister Trudeau committed to establishing the Canada Water Agency, including the modernization of the Canada Water Act in consultation and cooperation with Indigenous peoples.

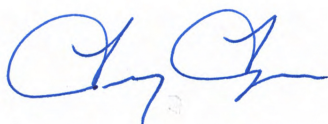
F. BCAFN Resolution 07/2021 directs BCAFN to:

a) Call on Environment and Climate Change Canada to engage with First Nations through a mutually consultative and collaborative framework that considers all First Nations interests, and rights in water, including but not limited to determining how the Canada Water Agency can support First Nations communities' access to safe drinking water on Reserves; and

b) Call on Environment and Climate Change Canada to ensure they seek the free, prior and informed consent from all title and rights holders before proceeding with the development of the Canada Water Agency;

G. AFN Resolution 53/2023 directs the AFN to call on Canada to fund the creation of a national First Nations-led water stewardship task force, under the guidance and meaningful participation of the Advisory Committee on Climate Action and the Environment (ACE) and the Chiefs' Committee on Housing and Infrastructure (CCOHI), to inform the implementation and co-development of any such agency, including related legislation, policies, and initiatives.

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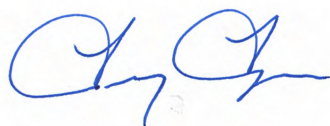
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- H. The Assembly of First Nations-in-Assembly has provided extensive direction to the Assembly of First Nations (AFN) through resolutions addressing drinking water and wastewater issues faced by First Nations, including Resolutions 26/2018, 01/2018, and 77/2018. More recently, AFN Resolution 23/2022 directed the AFN to call on Canada to recommit to meaningful co-development of legislation that, at a minimum:
- i. Recognizes First Nations rights and jurisdiction over lands and waters;
  - ii. Includes mandatory requirements for Canada to provide water and wastewater treatment that meets minimum national standards (or, where requested, the more stringent of the federal requirements or provincial standards governing residential water quality);
  - iii. Commits Canada to provide adequate and sustained funding (including at a minimum capital, operations and maintenance, and inspections) to address water and wastewater;
  - iv. Includes mechanisms to address transboundary waters;
  - v. Includes liability protection for owners and operators; and
  - vi. Includes governance structures that ensure First Nations are decision-makers in the provision of water and wastewater services.

**THEREFORE BE IT RESOLVED THAT:**

1. The BCAFN Chiefs-in-Assembly call on the National Assembly of First Nations and Indigenous Services Canada to work in full co-development and partnership to ensure that the minimum requirements as identified in AFN Resolution 23/2022 are sufficiently incorporated into *An Act respecting drinking water, wastewater, and related infrastructure on First Nation lands*, including full alignment with the *United Nations Declaration on the Rights of Indigenous Peoples*.
2. The BCAFN Chiefs-in-Assembly call on the Regional Chief and staff to support interested First Nations in filing a statement of claim, pursuing legal actions, and advocating nationally if the First Nations' requirements as outlined above are not meaningfully incorporated into the legislation;
3. The BCAFN Chiefs-in-Assembly call on Indigenous Services Canada to work in full co-development with BCAFN on the implementation of the Act, if successful, including, at a minimum, the creation of the First Nations Water Commission, the development of a funding framework and the development of drinking water and wastewater quality standards; and,
4. The BCAFN Chiefs-in-Assembly call on Environment and Climate Change Canada to enact the *Canada Water Act* modernization process, in full co-development and co-drafting with First Nations, including developing a mutually agreed upon co-development framework supported and endorsed by the AFN First Nations-in-Assembly resolution prior to the modernization process. The modernization of the Canada Water Act and the creation of the Canada Water Agency must include a mechanism for First Nations to assert their water rights and must comply with the requirements of the *United Nations Declaration on the Rights of Indigenous Peoples*.

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