

# DRAFT RESOLUTION # 17 / 2018

AFN Special Chiefs Assembly, December 4-6, 2018, Ottawa, ON

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**TITLE:** Closing the Environmental Protection Regulatory Gap on First Nations Lands

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**SUBJECT:** Environment

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**MOVED BY:** Chief Calvin Sanderson, Chakastaypasin First Nation, SK

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**SECONDED BY:** Chief Scott McLeod, Nipissing First Nation, ON

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## WHEREAS:

- A. The United Nations Declaration on the Rights of Indigenous Peoples states:
- i. Article 29 (1): Indigenous peoples have the right to the conservation and protection of their environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for Indigenous peoples for such conservation and protection, without discrimination.
  - ii. Article 29 (2): States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of Indigenous peoples without their free, prior and informed consent.
- B. No relationship is more valuable to First Nations than that with Mother Earth, the natural environment and everything contained within, including animals and marine life, forests and plants, surface and sub-surface waters and the air.
- C. The Assembly of First Nations (AFN) is committed to the promotion and protection of Treaty and inherent rights of First Nations and to advancing the collective interests of First Nations relating to self-determination, stewardship, protection and conservation of the environment.
- D. First Nations require effective tools, funding, and capacity to ensure environmental protection for the lands, waters, air, and First Nations peoples, especially children, mothers, and families.
- E. There are significant gaps in on-reserve environmental protections resulting from inadequate legislation, policy, regulatory tools, and enforcement capabilities under Part 9 of *the Canadian Environmental Protection Act, 1999*.
- F. AFN Resolution 41/2017, *Environmental Protection on First Nations Lands* and Resolution 52/2017, *First Nation Environmental Law* were passed on the need to address gaps in environmental protection for First Nations and need for Canada to establish processes and obtain free, prior, and informed consent with Aboriginal Title and Treaty rights holders when pursuing changes to environmental law.
- G. The federal government, in their response letter to the Standing Committee on the Environment and Sustainable Development, chose to not amend the *Canadian Environmental Protection Act, 1999*, but has indicated to the AFN they are interested in engaging on the regulatory gap and will be developing a

## **D R A F T   R E S O L U T I O N   # 1 7 / 2 0 1 8**

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policy framework regarding “vulnerable populations,” the definition of which First Nations may be included under.

#### **THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:**

1. Direct the Assembly of First Nations (AFN) to continue to urge the federal government to immediately address the on-reserve environmental protection gap through legislative, policy, regulatory, and program reforms, including to the *Canadian Environmental Protection Act*, in consultation and partnership with First Nations.
2. Call on the Government of Canada to recognize, respect and fully implement First Nations inherent rights, Treaties, Title and jurisdiction, including First Nations laws, governance, and management systems.
3. Call on the Government of Canada to immediately address the long-standing gaps in environmental protection on First Nations lands in full consultation and partnership with First Nations.
4. Direct the AFN to engage with the Minister of Environment and Climate Change Canada and the Minister of Indigenous Services Canada to seek an appropriate resolution to this matter.
5. Direct the AFN to urge the Minister of Environment and Climate Change Canada and the Minister of Indigenous Services Canada to ensure the full and effective participation of First Nations in all aspects of environmental protection through dedicated resources to enhance capacity as well as co-development of legislation, policy, regulations, and programs, including for regulatory enforcement.