



## ENVIRONMENT

### **What is the history of this issue and how does it impact First Nations?**

The evidence is clear: we are facing a joint climate and biodiversity crisis. As the AFN Environment Sector, our efforts will continue to lift-up the tireless leadership of First Nations in climate action, conservation, biodiversity and environmental health and work to ensure our collective well-being is appropriately rooted in our First Nations' worldview. A worldview that –while acknowledging the diversity— has a common foundation: an understanding that we are one with Mother Earth.

### **How has the AFN's recent advocacy affected this area?**

In collaboration with the Advisory Committee on Climate Action and the Environment (ACE), the Environment Sector has advanced First Nations' self-determination and jurisdiction within the context of climate change, conservation and biodiversity, and environmental health. This has included advancing the AFN National Climate Strategy, Indigenous Protected and Conserved Areas (IPCAs), First Nations leadership in species at risk conservation, food security/sovereignty and environmental protection, as well as First Nations considerations for a 'green recovery' post-COVID.

## CLIMATE ACTION

Since the passing of Resolution 05/2019, *Declaring a First Nations Climate Emergency*, the Environment Sector has continued to advance several priorities related to First Nations climate leadership, building on the first-ever AFN National Climate Gathering (March 3-4, 2020, Whitehorse, YT). Efforts have focused on continuing the strategic development of the AFN National Climate Strategy supported by various technical webinars and surveys. The Joint Committee on Climate Action (JCCA) has continued to work virtually, seeking to advance First Nations interests in the new federal climate plan, *A Healthy Environment and A Healthy Economy*. The third annual report of the JCCA is in the final drafting stages, with expected release in the coming months. Finally, the Environment Sector is closely monitoring the review process of Bill C-12 (*The Canadian Net-Zero Emissions Accountability Act*), and provided a technical submission to the House of Commons Standing Committee on Environment and Sustainable Development (ENVI) studying this Bill.

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## **CONSERVATION & BIODIVERSITY**

The Environment Sector continues to advocate for the full and effective participation of First Nations in all efforts related to conservation and biodiversity. This includes ongoing involvement in the federal Pathway to Canada Target 1 initiative and evolving governance discussions in support of First Nations-led conservation efforts, and to make critical contributions toward Canada's conservation goals to protect 25% of land and water by 2025, and 30% by 2030, respectively. The Environment Sector hosted two national technical dialogue sessions in March 2021 in support of First Nations-led species-at-risk (SAR) conservation efforts and national network development and maintained its participation in the Convention on Biological Diversity (CBD), specifically in the development of the CBD's *Post-2020 Global Biodiversity Framework*, which will establish the international benchmark for conservation and biodiversity efforts for the next decade. Additional work has involved participation in exploratory discussions related to the evolving Federal Nature Agenda, including preliminary considerations for the establishment of a First Nations Nature Table.

## **ENVIRONMENTAL HEALTH**

Efforts to expand the breadth and scope of the environmental health portfolio within the Environment Sector are ongoing. The Environment Sector has advanced efforts on a number of key issues including participation in the review of the Canadian Environmental Protection Act (CEPA) and the Chemicals Management Plan (CMP). This has included a focus on Bill C-28, *An Act to Amend the Canadian Environmental Protection Act*, supporting First Nations technical dialogues on food security and sovereignty, and wildlife health issues (e.g., Chronic Wasting Disease and other zoonotic diseases). Pilot studies under the Food, Environment, Health and Nutrition of First Nations Children and Youth (FEHNCY) Study are continuing in two communities, with initial outreach to six randomly selected First Nations in the Atlantic region. Finally, efforts are ongoing with Environment and Climate Change Canada's (ECCC) National Boreal Caribou Knowledge Consortium (NBCKC).

### **Where do we hope to go in the future?**

Environmental advocacy is an issue of growing importance. The urgency with respect to the impacts of climate change, and other crises that are accelerated by climate change (e.g., biodiversity loss), compel the ACE and its associated committees to both challenge and inform governments with respect to the role of First Nations as stewards of Turtle Island. This grounding

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will continue to inform our efforts to empower First Nations as leaders in climate action and conservation. It will also form the basis of the AFN's National Climate Strategy expected to be completed late in 2021, as well the hosting of a second major National Climate Gathering in 2022.

Key resolutions that guide and inform these efforts include:

- 120/2016, *Establish a First Nations specific committee under the Species at Risk Act*
- 64/2018, *Indigenous Protected and Conserved Areas – Pathway to Canada Target 1: Conservation 2020 Initiative*
- 03/2019, *The Convention on Biological Diversity (CBD)*
- 04/2019, *Support for Food, Environment, Health and Nutrition of First Nations Children and Youth (FEHNCY) Study*
- 05/2019, *Declaring a First Nations Climate Emergency*
- 95/2019, *First Nations full partnership in the implementation of the Pan-Canadian Approach to Species at Risk Conservation in Canada*
- 17/2020, *Support for First Nations Climate Leadership, Food Sovereignty, Environmental Protection, Stewardship and Conservation*



## LANDS

### **What is the history of this issue and how does it impact First Nations?**

In this era of decolonization and reconciliation, Canadian law and policy must support the self-determination of First Nations, which has been severely undermined by colonial policies and practices. The AFN rejects colonial approaches, while seeking to support First Nations' self-determination over their lands, territories, and resources.

First Nations have opted for a variety of ways to exercise their self-determination within this colonial context. Some First Nations exert self-determination through statute, such as the *First Nations Lands Management Act* or legislation specific to their Nation. Others exert self-determination through historic treaties, while others seek to negotiate agreements that would recognize their territorial integrity and self-determination, such as through a modern treaty. Still other First Nations outright reject Canada's assertions of sovereignty and seek to exercise their self-determination through their own laws. Many First Nations use a combination of the above approaches to exercise self-determination.

Canada's policies and processes must recognize and respect the unique priorities and approaches that each First Nation chooses to pursue, and the AFN seeks to support each First Nation regardless of its approach. The AFN Lands Sector is focused on finding opportunities to support First Nations' self-determination through advocacy, policy and legislative initiatives.

### **How has the AFN's recent advocacy affected this area?**

In collaboration with the Chiefs Committee on Lands, Territories and Resources (CCoLTR), the AFN Lands Sector is supporting First Nations' self-determination over lands, territories, and resources through work on specific claims, Additions-to-Reserve (ATR), and federal approaches to the recognition of title and rights.

## TITLE AND RIGHTS

AFN resolutions clearly reject the federal Comprehensive Land Claims Policy (CLCP) and the Inherent Rights to Self-Government Policy (IRSG) and support the multitude of approaches First Nations choose to assert their Inherent Rights, Title, and jurisdiction in engaging with the Crown. AFN advocacy seeks to support these efforts and ensure no approach or strategy is adversely impacted as a result.

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Currently, the Government of Canada is engaging with First Nations on Title and Rights through a variety of federal processes, including the CLCP, IRSG, and Recognition of Rights and Self-Determination Discussion Tables. While it is critical that First Nations be able to discuss their chosen priorities through a joint process of their choosing, it is equally important that the positions taken by the Government of Canada be guided by clear and transparent principles consistent with the Honour of the Crown and the minimum standards of the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration).

A lack of transparency and publicly available information with respect to federal processes creates uncertainty for First Nations, while confidentiality requirements place First Nations at a distinct disadvantage relative to the Crown, which has the internal capacity to coordinate its position relative to all First Nations. Addressing this inequity will involve working with federal officials through an AFN-Canada joint process to seek information on the ways First Nations are choosing to implement and assert their inherent rights, Title, and jurisdiction.

In 2020, the AFN began focusing on data collection on existing federal approaches that address First Nations inherent Rights, Title, and jurisdiction. Moving forward, the AFN is seeking opportunities to facilitate national dialogue with and among First Nations on how they would like the AFN to support their existing efforts through advocacy, policy development, or information sharing.

### **SPECIFIC CLAIMS**

In late 2016, the AFN and Canada formed a Joint Technical Working Group (JTWG) with a mandate to examine the specific claims process and develop joint recommendations for change. The JTWG continues to meet on a regular basis. During the fall of 2017, the AFN Chiefs-in-Assembly passed Resolution 91/2017, *Support for a Fully Independent Specific Claims process*, calling for the creation of a fully independent specific claims process.

In 2019, the AFN carried out a national dialogue process with First Nations to seek input on what a fully independent specific claims process should look like. The AFN created a Summary Report of Regional Dialogue Sessions (Summary Report) reflecting comments received from First Nations during the 2019 dialogue process. Following the release of the Summary Report, the AFN began working with its First Nations technical representatives on the JTWG to develop a draft Specific Claims Reform Proposal.

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In 2020, the Chiefs-in-Assembly passed AFN resolution 09/2020, *Jointly Develop a Fully Independent Specific Claims Process* calling on Canada to work directly with the AFN and the Chief's Committee on Lands, Territories and Resources to develop a fully independent specific claims process consistent with the UN Declaration and based on the following four principles identified during the 2019 dialogue process:

1. Maintenance of the Honour of the Crown
2. Independence in all aspects of Claims Resolution
3. Recognition of Indigenous Laws
4. No Arbitrary Limits on Compensation

In 2021, the AFN finalized its draft Specific Claims Reform Proposal, incorporating these four principles, and released the Reform Proposal publicly to seek comments and feedback— this process is expected to be completed by August 2021.

#### **ADDITIONS TO RESERVE**

In 2010, the Assembly of First Nations (AFN) and Canada formed a Joint Working Group (JWG) mandated by AFN resolution to jointly reform the 2001 Additions to Reserve (ATR) policy. This work culminated in AFN Resolution 17/2016, *Call on Canada to Update the Additions to Reserve Policy*, which urged Canada to release the new ATR policy and work with the AFN on its joint implementation. While Canada released the updated policy, it failed to include the AFN in its subsequent implementation and interpretation.

In 2018, following a series of unilateral legislative changes with implications for ATR, the Chiefs-in-Assembly passed AFN Resolution 94/2018, *Reject Canada's Approach to Additions to Reserve Legislation*, which reaffirmed AFN's earlier mandates. In 2019, based on a new federal mandate, Minister Bennett committed to undertake a redesign of the ATR policy. This, along with consistent AFN pressure to engage, resulted in the creation of a new bilateral Lands Table, in 2020, focused on ATR reform. Through this Table, the AFN is seeking to ensure that any policy reform includes a robust review of the 2016 policy and process, and meaningfully engages with First Nations, who must drive the development of any meaningful policy reform.

Finally, the Lands Sector is also seeking to initiate discussion at the Lands Table about how Canada can better support First Nations seeking to create a new reserve and/or achieve federal 'band' recognition. The Individual Affairs Branch is currently carrying out a review of the New Band and Band Amalgamation Policy, which has implications for First Nations in these unique and

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challenging circumstances. The Lands Sector will seek opportunities to participate in the review and to support First Nations currently navigating federal policy.

### Where do we hope to go in the future?

Self-determination requires that First Nations have access to and control over their lands, territories, and resources, while also being able to participate in fair, impartial and transparent processes that facilitate the review and settlement of Canada's outstanding lawful obligations to First Nations. Supporting First Nations' self-determination guides efforts by the AFN Lands Sector will form the basis for advocacy in 2021-22, which includes finalizing a proposal to reform the specific claims process, and a review of Canada's ATR process, which would form the basis for engagement with First Nations in 2022.

Key resolutions that guide the AFN Lands Sector include:

- 05/2010, *Support for Band & Reserve Status for Whitewater Lake First Nation in Ontario*
- 26/2012, *Additions to Reserve Process and Policy Reform*
- 48/2015, *Develop a Federal Comprehensive Land Claims Policy Based on the Full Recognition of Aboriginal Title*
- 17/2016, *Call on Canada to Update the Additions to Reserve Policy*
- 91/2017, *Support for a Fully Independent Specific Claims Process*
- 94/2018, *Reject Canada's Approach to Additions to Reserve Legislation*
- 05/2019, *Support for a First Nations led Engagement Process on Nation Building*
- 09/2020, *Jointly Develop a Fully Independent Specific Claims Process*
- 14/2020, *Issues with ability to register land under 53/60*



## WATER

### What is the history of this issue and how does it impact First Nations?

The vast majority of policies involving water fail to embody the critical roles of First Nations women with respect to water. The recent AFN re-organization (April 1, 2021) established a new AFN Water Sector to both elevate the role of women with respect to the protection of water, and to ensure that First Nations' inherent and Treaty rights, title, and jurisdiction with respect to water stewardship are maintained. Most often, water located within First Nations' territories becomes polluted from outside sources, with little recourse to address the underlying causes of this harm. A healthy ecosystem is fundamental to exercise our rights and laws, which in turn enable us to both use and take care of the resources in our territories.

Industrial development and climate change are both negatively impacting our health and way of life. Industrial practices often contravene our water-related rights, including the contamination of water from tailing ponds, unsustainable agricultural irrigation practices, oil and chemical spills, the diversion of waterways (e.g., dams), gray water from pulp and paper mills, the addition of foreign substances in aquaculture (e.g., antibiotics), and plastic waste pollution— to only name a few. In addition to industrial threats, climate change exacerbates many of these challenges with extreme weather events, which cause increased occurrences of both flooding and droughts. Amongst both freshwater and marine environments, rising water temperatures escalate the likelihood of harmful algal blooms and eutrophication, acidification, melting sea ice, and sea level rise. Finally, the rapid melting of glaciers threatens the sustainability of many of our freshwater river systems.

For First Nations women, the connection to water deepens through their roles as child bearers. Just as water from Mother Earth carries life to us, women also carry life and water in their wombs during pregnancy. Colonialism has widely invalidated natural law and the way that water is respected. This has led to a disconnect where the intergenerational transfer of knowledge of the roles and responsibilities of women has not been passed on from the grandmothers to the mothers, who in turn, have been unable to teach the youth. As a result, First Nations women and children have suffered a loss of traditional roles, responsibilities, and practices. Alarming, the vast majority of policies involving water, lack a clear and sufficient gender-based analysis that adequately embodies the critical voices of First Nations women.

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## How has the AFN's recent advocacy affected this area?

The AFN Water Sector has the responsibility to support First Nations' stewardship over inland and marine waters. This involves supporting the implementation of the AFN's wide-ranging mandates and initiatives focused on water stewardship, which include jurisdiction over water (i.e., title and rights) and conservation initiatives (e.g., protected areas, habitat loss, biodiversity preservation) as seen in resolutions such as: 01/2019, *First Nations Treaty and Inherent Rights to Water* and 45/2016, *National Water Conservation and Protection Strategy for The Great Lakes* for example. The advocacy work of the Water Sector will look to advance First Nations' water leadership, with a specific focus on the role of women. As a start, the Water Sector hopes to raise awareness of First Nations traditional roles with respect to water by coordinating a National Water Walk in the spring of 2022. The goal of the Sector is not to replace other AFN sectors that advocate for water-related issues (e.g., clean drinking water), but rather, to work in collaboration with them in a multi-dimensional, comprehensive way.

Water-related issues begin with adverse water quality. Without adequate water quality that can support smaller invertebrate species, the delicate food web becomes disrupted and results in instances where fish cannot properly thrive. Similarly, without a protected water source, we cannot acquire clean drinking water. The condition of our water is not only dependent on how well we protect it, but it is acutely dependant on broader environmental influences, including climate change.

## Where do we hope to go in the future?

Water is essential for life. There is an urgent need to ensure our inland and marine waters are protected from further degradation caused by anthropogenic sources, as well as the negative impacts of climate change. This will involve the creation of an AFN National Water Strategy that is based on our inherent and Treaty rights, title, and jurisdiction. Additionally, our work will contain a special emphasis on elevating the leadership role of women in water-related activities across Turtle Island, since this is a role traditionally held by women. The Water Sector will continue to advocate for the recognition and implementation of Indigenous Protected and Conserved Areas (IPCAs), including Canada's commitment to protect 25% of ocean space by 2025, and will participate in the Convention on Biological Diversity's (CBD) *Post-2020 Global Biodiversity Framework*, among other national and international fora.

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Key resolutions involving the AFN Water Sector include:

- 01/2019, *First Nations Treaty and Inherent Rights to Water*
- 93/2017, *Legal Recognition for Kichizibi (Ottawa River) Watershed*
- 20/2017, *Respecting Inherent Rights and Jurisdiction over Waters Parallel to the Review of Canada's Navigation Protection Act*
- 131/2016, *Protecting the Rights of Water Protectors: Review and Amendment of Anti-Terrorism Act, 2015*
- 69/2016, *Support for the Peel River Watershed in Yukon Territory*
- 45/2016, *National Water Conservation and Protection Strategy for The Great Lakes*
- 49/2015, *Protection of Algonquin Sacred Waterfalls Area: Akikodjiwan Kichi Zibi (Chaudiere Falls, Ottawa River)*

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