
Assembly of First Nations

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Assemblée des Premières Nations

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ANNUAL GENERAL ASSEMBLY
July 23, 24 & 25, 2019, FREDERICTON, NB

Resolution no. 14/2019

TITLE: Endorsement of the Refined Preliminary Concepts for Repeal and Replacement of the *Safe Drinking Water for First Nations Act*

SUBJECT: Water

MOVED BY: Chief Dan George, Burns Lake Indian Band/Ts'il Kaz Koh, B.C.

SECONDED BY: Chief Lance Haymond, Kebaowek First Nation, QC

DECISION: Carried; 1 abstention

WHEREAS:

- A. The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
- i. 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.
 - ii. 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 or implementing legislative or administrative measures that may affect them.
 - iii. Article 25: Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.
 - iv. Article 32 (2): States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

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- B.** The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls has identified the First Nations water and housing crisis as a source of violence against First Nations women and girls.
- C.** Call For Justice 4.1 identifies the appropriate response to these crises as follows:
- i.** We call upon all governments to uphold the social and economic rights of Indigenous women, girls, and 2SLGBTQQIA people by ensuring that Indigenous Peoples have services and infrastructure that meet their social and economic needs. All governments must immediately ensure that Indigenous Peoples have access to safe housing, clean drinking water, and adequate food.
- D.** The *Safe Drinking Water for First Nations Act* (SDWFNA) came into force on November 1, 2013. The SDWFNA grants sweeping enforcement, legislative and judicial powers to the Crown as well as the ability to confer those powers to any person or body including private corporations. The SDWFNA and government policies and programs have failed to address the continuing financial resource gap for First Nations water infrastructure and the required operations and maintenance of that infrastructure.
- E.** Assembly of First Nations (AFN) Resolution 88/2017, *First Nations led Engagement Process for Safe Drinking Water Legislation*, called for First Nations to take the lead in determining and developing priorities and strategies for new safe drinking water and wastewater legislation, including the co-development of a draft framework for new legislation and a framework for a First Nations Water Commission.
- F.** In accordance with AFN Resolution 01/2018, *First Nations Led Process to Develop New Federal Safe Drinking Water Legislation*, the AFN developed the *First Nations Safe Drinking Water Legislation Preliminary Concepts (Preliminary Concepts)* that proposed priorities, principles and interests foundational to new First Nations safe drinking water and wastewater legislation, These *Preliminary Concepts* were endorsed by the Chiefs-in-Assembly through AFN Resolution 26/2018, *Support for a First Nations Preliminary Concepts* as a basis for further engagement with First Nations across Canada in advance of the affirmation and assertion of repeal and replacement legislation.
- G.** The AFN has conducted a regionally led National Engagement Process in all regions of Canada throughout the spring and summer of 2019 to engage First Nations technicians, Leadership and representatives on their views, needs, concerns and aspirations for the repeal and replacement of the *Safe Drinking Water for First Nations Act*.

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- H. The AFN has drafted the *First Nations Safe Drinking Water Refined Preliminary Concepts (Refined Preliminary Concepts)* utilizing the feedback, insights and concerns of First Nations provided through the National Engagement Process and now brings these Refined Preliminary Concepts to the Chiefs-in-Assembly for their review and endorsement as the affirmation and assertion continues for repeal and replacement legislation for the SDFWNA.

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

1. Hereby endorse the Refined Preliminary *Concepts* as a working document to inform an affirmation and assertion process with the Government of Canada to produce joint recommendations on a framework to repeal and replace the SDWFNA that will address the provision of First Nation safe drinking water and wastewater management.
2. Urge the Federal Government to participate in the affirmation and assertion process with the nations in a manner consistent with the United Nations Declaration on the Rights of Indigenous Peoples, the Calls to Justice in the Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls, and the numerous commitments it has made to First Nations.
3. Call upon the Assembly of First Nations (AFN) to declare that, as partners in reconciliation, provinces and territories must recognize that First Nations rights, interests and title to waters and waterbodies remain unextinguished and will not be encumbered by Provincial and Territorial assertions of jurisdiction.
4. Direct the AFN to conduct follow-up engagement with First Nations throughout Canada throughout 2019 and 2020 on key issues, concerns and Regional or Local First Nations water initiatives that may be impacted or supported by the repeal and replacement of the *Safe Drinking Water for First Nations Act*.
5. Direct the AFN to seek sufficient resources to support the follow-up engagement process with First Nations, including a future affirmation and assertion process with the Government of Canada.
6. Direct the AFN to return to the next Chiefs Assembly to present the results of the follow-up engagements and affirmation and assertion process to the Chiefs-in-Assembly.

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