
Assembly of First Nations

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

Resolution no. 53/2019

TITLE: Human Right to Clean Drinking Water

SUBJECT: Drinking Water

MOVED BY: Chief Byron Louis, Okanagan Indian Band, BC

SECONDED BY: Chief R. Donald Maracle, Mohawks of the Bay of Quinte First Nation, ON

DECISION: Carried by Consensus

WHEREAS:

- A. The United Nations Declaration on the Rights of Indigenous Peoples (the 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 human right to water and sanitation (HRWS) was recognized as a human right by the United Nations General Assembly on July 28, 2010.
- C. First Nations and all Canadians have the basic human right to clean drinking water. In addition, since the Walkerton Crisis of 2000, the Province of Ontario has made clean drinking a priority for all municipalities, while failing to include First Nation communities.
- D. Since the current federal Liberal Government was elected in October 2015, eliminating all First Nation Long-Term Drinking Water Advisories within five years was made a top priority by the Prime Minister, in his mandate letters to Cabinet.
- E. On July 8, 2019, Attawapiskat First Nation declared a State of Emergency over drinking water that contains harmful levels of trihalomethanes (THMs) and halo acetic acids (HAAs) which are by-products of the disinfection process created when chlorine interacts with high levels of organic materials in the community's water source. The water is also unsafe to bathe in, causing skin burns and in at least one case, a nosebleed to a young child.
- F. On July 15, 2019 – Eabametoong First Nation also declared a State of Emergency as discovery of high levels of trihalomethanes alarmingly have been detected in the remote community's water distribution system. Eabametoong has been on a boil water advisory for 18 years.
- G. One of the main obstacles for Attawapiskat to qualify for federal funding to build a clean drinking water system is the enormous burden of red tape and reports that must be filled out and sent to bureaucrats in Ottawa, which then take many months to file a response. For example, according to Indigenous Services Canada, the following criteria must be met:
- i. A feasibility study is required before any project receives approval. Feasibility studies must conform with the requirements set out in the *Design Guidelines for First Nations Water Works*, the *Protocol for Centralised Drinking Water Systems in First Nations Communities*, the *Protocol for Decentralized Water and Wastewater Systems in First Nations Communities*, and/or the *Protocol for Centralised Wastewater Systems in First Nations Communities*, as applicable. At a minimum, feasibility studies must include:
 - i. project rationale;
 - ii. description of any existing water works and wastewater facilities;
 - iii. source water quality;

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- iv. identification of the community or area served;
- v. description of the nature and extent of the area to be served;
- vi. provisions for extending the water system to include additional areas;
- vii. appraisal of the future requirements for service, including existing and potential industrial, commercial, institutional, and other water supply needs;
- viii. detailed analysis of advantages and disadvantages of each option analysed;
- ix. recommended option with reference to Aboriginal Affairs and Northern Development Canada (AANDC's) Level of Service Standards (LOSS) (note: bench scale study results, or pilot studies, or demonstrations may be required later to establish adequacy of recommended process, or, may be required as part of the deliverables of the feasibility study);
- x. detailed analysis of operation and maintenance cost for all options, including the requirement for a certified operator;
- xi. life cycle cost analysis of all options;
- xii. Environmental Scoping Report (including *Species at Risk Act* and a timber permit assessment);
- xiii. Identify regulatory impacts (i.e: permits and licenses that will be required for the project);
- xiv. land requirements (including for future expansion); and
- xv. identify all permits and applicable water licenses that will be required for the project.

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

1. Call upon the federal government to immediately to remove bureaucratic barriers and systemic failures in guidelines and policies which lead to the denial of the basic human right to clean drinking water to the residents of Attawapiskat First Nation, and all other First Nation communities who are experiencing similar problems.

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