
Assembly of First Nations

55 Metcalfe Street, Suite 1600
Ottawa, Ontario K1P 6L5
Telephone: 613-241-6789 Fax: 613-241-5808
www.afn.ca



Assemblée des Premières Nations

55, rue Metcalfe, Suite 1600
Ottawa (Ontario) K1P 6L5
Téléphone: 613-241-6789 Télécopieur: 613-241-5808
www.afn.ca

Special Chiefs Assembly
December 7, 8, 9, 2021, Ottawa (Ontario)

Resolution no. 43/2021

TITLE: Support for First Nations Inherent Rights, Title and Jurisdiction of Water Stewardship, including the Traditional Roles of First Nations Women

SUBJECT: Water Stewardship

MOVED BY: Chief Greg Louie, Ahousaht First Nation, BC

SECONDED BY: Wapastim Harper, Proxy, Chemawawin Cree Nation, MB

DECISION Carried; 2 abstentions

WHEREAS:

A. The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:

- i. Article 22 (2): States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.
- ii. 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.
- iii. Article 26 (1): Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
- iv. Article 27: States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were

Certified copy of a resolution adopted on the 9th day of December 2021 in Ottawa, Ontario

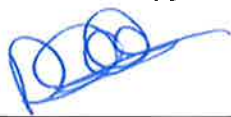
ROSEANNE ARCHIBALD, NATIONAL CHIEF

43 – 2021
Page 1 of 3

traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

- v. Article 28 (1): Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.
 - vi. Article 32 (1): Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.
 - vii. 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.
 - viii. Article 32 (3): States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.
- B.** First Nations have Inherent and Treaty rights regarding the protection of water within their lands and territories and the Government of Canada must uphold and honour the inherent authority and jurisdiction of First Nations to exercise stewardship, including protection and conservation of water.
- C.** Water is a fundamental human right for First Nations, and this right is uniquely situated within a framework of inherent rights that are constitutionally protected under section 35 of the *Constitution Act, 1982*, and supported by international mechanisms and instruments, including the UN Declaration.
- D.** Given the traditional roles of First Nations women and their connection to water, and in alignment with the *Charter of Rights and Freedoms* of the *Constitution Act, 1982* and the *Canadian Human Rights Act*, it is imperative that the Government of Canada bring Indigenous women, youth, and gender-diverse people to all decision-making tables where water is involved.
- E.** First Nations water protectors have experienced violence and prosecution while protecting water on First Nations lands and territories.

Certified copy of a resolution adopted on the 9th day of December 2021 in Ottawa, Ontario



ROSEANNE ARCHIBALD, NATIONAL CHIEF

43 – 2021
Page 2 of 3

- F. In 1995, the Government of Canada committed to including a Gender Based Analysis (GBA+) approach to all government policy and programs across federal departments and agencies, however, they have failed to do so, according to the 2015 Fall Reports of the Auditor General of Canada.
- G. Waters within First Nations lands and territories have become polluted and decreased in quality and quantity due, in part, to industrial practices that have taken place without the free, prior, and informed consent of First Nations.
- H. AFN Resolution 01/2019, *First Nations Treaty and Inherent Rights to Water*, directs the AFN to call on Canada to immediately work in full partnership with First Nations to advance the work needed to achieve reconciliation and the standards set out in the UN Declaration, including Articles 25 and 32 for the full and meaningful implementation of Indigenous water rights in their territories, as well as a legislative commitment to the UN Declaration.

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

1. Reaffirm First Nations Inherent and Treaty rights to water and reaffirm that each First Nation retains jurisdiction over water in their territory.
2. Direct the Assembly of First Nations (AFN), with guidance from the Advisory Committee on Climate Action and the Environment ('ACE') to pursue funding to support First Nations water stewardship priorities related to First Nations' inherent rights, title, and jurisdiction.
3. Direct the AFN, with guidance from the ACE, to advocate for policy change and program development to support water stewardship for the betterment of First Nations, while ensuring that First Nations, AFN regions, and/or Treaty territories can independently choose to engage on any process relating to improving water protection within their lands and territories.
4. Call on the Government of Canada, and all provinces and territories, to improve and strengthen partnerships with First Nations, to respect First Nations' jurisdiction over water, and to ensure First Nations' participation in decision-making processes concerning water protection and conservation, with a special emphasis on First Nations women.
5. Call on Canada to implement a Gender Based Analysis (GBA+) lens to all work pertaining to water that recognizes the traditional roles of First Nations women with respect to water.

Certified copy of a resolution adopted on the 9th day of December 2021 in Ottawa, Ontario



ROSEANNE ARCHIBALD, NATIONAL CHIEF

43 – 2021
Page 3 of 3