



ASSEMBLY OF FIRST NATIONS
Special Chiefs Assembly

December 5-7, 2023

Shaw Centre – Ottawa, Ontario

Ottawa is located on the unceded unsurrendered Territory of the Algonquin People.

ASSEMBLÉE DES PREMIÈRES NATIONS
Assemblée extraordinaire des Chefs

Du 5 au 7 décembre 2023 - Centre Shaw - Ottawa (Ontario)

Ottawa est située sur le territoire non cédé et non abandonné du peuple algonquin.



Clean Drinking Water

History

In the wake of the pandemic, Canada faces the growing threat of a widening of the First Nations Infrastructure Gap, with escalating construction costs placing vital projects at risk. The urgent need to tackle the housing crisis and invest in critical infrastructure compounds the challenges faced by underfunded First Nations communities. Climate change intensifies the issues for remote First Nations and necessitates sustainable funding for those First Nations to better build climate resilience into all future infrastructure developments.

The Assembly of First Nations (AFN) advocates for major federal government investments in community infrastructure and the creation of First Nations-led policies and solutions related to community infrastructure.

SAFE DRINKING WATER LEGISLATION

First Nations extensively criticized the 2013 *Safe Drinking Water for First Nations Act* (SDWFNA) resulting in numerous Resolutions. Following persistent advocacy by the AFN and under the terms of the National Class Action Settlement Agreement, the SDWFNA was repealed in June 2022 and Canada was required to enact replacement legislation in consultation with First Nations by December 31, 2022. Canada did not meet this deadline.

As mandated by First Nations-in-Assembly, the AFN and Canada began co-developing the replacement legislation. Since 2019, the AFN sought feedback from First Nations in every AFN region on key elements of the proposed replacement legislation.

At the December 2022 Special Chiefs Assembly, First Nations-in-Assembly passed Resolution 23/2022, *Re-Commitment to Co-Development of Replacement Legislation for Safe Drinking Water for First Nations*. The resolution called on Canada to resume co-development of the replacement legislation and to ensure the critical requirements identified by First Nations were included. These requirements include recognition of rights over source waters, minimum binding national standards, commitment to funding, liability protection for First Nations governments, water governance structures led by First Nations, and mechanisms to address management of transboundary source waters.

AFN's recent advocacy

SAFE DRINKING WATER LEGISLATION

The AFN has consistently conducted legal analyses of each iteration of the proposed legislation in support of First Nations priorities. Canada released a revised draft consultation legislation in August 2023 that does not meet the terms of the Class Action Settlement. As a result of sustained advocacy by the AFN and First Nations, ISC Minister Hajdu delayed introduction of the legislation while seeking an expanded mandate.

The legislation is expected to be tabled in December 2023.



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INFRASTRUCTURE GAPS

The AFN continues to advocate for major federal government investments urgently needed for critical infrastructure, as well as for the creation of First Nations-led policies and solutions which address access to clean drinking water and adequate community infrastructure services. The AFN has completed two Closing the Infrastructure Gap by 2030 Reports. The first volume is a comprehensive costing report that deals with the current estimated costs for the Government of Canada to close the First Nation infrastructure gap by 2030. The second volume projects the growth to “the Gap” in the year 2040, should the Government of Canada fail in both its federal and public commitments to close the First Nations Infrastructure Gap by 2030.

As a result of sustained advocacy, the federal government has agreed to work with the AFN towards the co-development of Operations and Maintenance (O&M), Federal Tendering, and Fire Protection policy reform. These initiatives have been directed by the First Nations-in-Assembly through Resolution 82/2019, *Support for Continuing Development of Indigenous Services Canada Revised Operations and Maintenance Policy and Full Funding of First Nations Operations and Maintenance Needs*. This work supports funding reform of all First Nations infrastructure assets and community services while also improving the capacity of First Nations businesses to participate in the procurement process of federally funded infrastructure projects. The AFN, with ISC, has recently co-developed the First Nations Fire Protection Strategy (2023 to 2028) and continues its co-development process on renewed Fire Protection Levels of Services Standards and updates to ISC’s Federal Tendering Policies.

Next Steps

SAFE DRINKING WATER LEGISLATION

The AFN has underpinned that First Nations require sufficient time to review and co-develop the final draft of the proposed legislation. The AFN urged Canada to share and co-develop the draft proposed legislation as soon as possible.

The AFN is exploring and analyzing risks related to the introduction. The AFN has developed a communications strategy and letters of response pending the formal release of the legislation. If First Nations critical requirements are not met, the AFN will be pursuing alternative interventions including but not limited to appearing in the parliamentary committee process. The AFN will provide First Nations with the required information and resources to advocate in support of their own priorities on the safe drinking water legislation.

INFRASTRUCTURE GAPS

The AFN Infrastructure Sector continues work in the following areas:



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OPERATIONS AND MAINTENANCE POLICY REFORM

ISC's current O&M Policy for funded assets on First Nations is outdated and does not adequately address asset repairs and maintenance costs. A review of its level of service standards is needed. Funding reform of First Nation Infrastructure Assets and addressing the 2020 Speech from the Throne commitment to close the First Nations Infrastructure Gap by 2030 is a high priority for the sector.

ASSET MANAGEMENT PLANNING (AMP)

The AFN is working towards developing a First Nations-led Asset Management Planning (AMP) approach, building on past commitments and outcomes of the 2023 AFN National Asset Management Conference, and increasing and expanding our collective awareness and knowledge of asset management and the role that AMP plays in decision-making in asset funding. |

FIRST NATIONS FIRE PROTECTION STRATEGY

The AFN is conducting a follow-up First Nations First Responders Gathering to bring together First Nations first responders across Canada to gather expertise, experience, and share stories on how to improve first responder infrastructure in First Nations communities.

FEDERAL TENDERING POLICIES

The AFN is working to support the updating of dollar value thresholds to outdated tendering policies that improves First Nations business participation on federally funded projects by providing alternative and renewed measures to bid bond and performance bond requirements for projects within First Nations.

The AFN is also updating evaluation criteria to ensure First Nations construction businesses have equitable access to tendering opportunities on federally funded infrastructure projects within their regions.

CLOSING THE INFRASTRUCTURE GAP BY 2030

The AFN will continue to inform both the public and private sectors on the costs and benefits of closing the First Nations infrastructure gap by national distribution of the closing the gap reports.

The AFN continues to advocate for the Government of Canada to act on its publicly made commitments to Canada and First Nations that it will make significant and immediate investments to close the First Nation Infrastructure Gap by 2030.

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