AFN Special Chiefs Assembly
December 9-11, 2008 Ottawa, ON

Resolution no. 52/2008

SUBJECT:	GOVERNMENT OF ALBERTA'S MANAGEMENT AND ALLOCATION OF WATER
MOVED BY:	Larron Northwest, Proxy, Samson Cree First Nation, AB
SECONDED BY:	Chief Cameron Alexis, Alexis Nakota Sioux Nation, AB
DECISION:	Carried by consensus

WHEREAS:

A. The Supreme Court of Canada has confirmed that both the Federal and Provincial Crown have a constitutional duty to consult with and accommodate First Nations when the Crown's actions potentially impact confirmed and claimed Treaty and Aboriginal rights;

B. The Alberta Court of Queen's Bench has stated that claimed Treaty water rights are not "dubious or peripheral", these claimed rights can give rise to the Crown's duty to consult and accommodate, particularly with respect to the allocation of water;

C. The First Nations in Treaties 6, 7 & 8 possess Treaty and Aboriginal water rights and are seriously pursuing these rights before the courts;

D. The management and allocation of water resources off-reserve by the Government of Alberta has the potential to profoundly impact First Nations' on-reserve water resources, the right to use and benefit from reserve lands, Treaty water rights and other Treaty and Aboriginal rights;

E. The Government of Alberta is not taking sufficient steps to meaningfully consult with and accommodate First Nations regarding the ongoing development of watershed and water management plans in the Elbow River, Bow River, Red Deer River, Athabasca River, Clearwater River, North Saskatchewan River and Battle River Basins, and other watersheds;

F. The Minister of Environment recently announced that the Government of Alberta intends to review water rights, and consider the eventual implementation of a water market throughout Alberta, but failed to state any intention to consult with First Nations;

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G. The Government of Alberta has failed to inform or consult with First Nations regarding its collaboration with the Government of Canada to impose the licensing and priority provisions of Alberta's *Water Act* on First Nations through the incorporation by reference of these provisions in Canada's proposed new Drinking Water Legislation for First Nations;

H. The Government of Alberta has consistently failed to satisfy the constitutional duty to consult with and accommodate the First Nations of Treaties 6, 7 & 8 regarding important water management and allocation decisions; and

I. First Nation peoples are recognized stewards of their traditional territories; a responsibility and a blessing from the Creator. This responsibility is a continuing priority, particularly with respect to all essential elements including air and water.

THEREFORE BE IT RESOLVED that:

1. Chiefs-in-Assembly support the position taken by the Assembly of Treaty Chiefs of Alberta that Alberta has a duty to consult with First Nations and accommodate Treaty water rights in relation to all decisions regarding water allocation, including but not limited to, applications for new water licenses that may increase the use of water resources, particularly in those regions of the province with present or looming water shortages.

2. Chiefs-in-Assembly support the call of the Assembly of Treaty Chiefs of Alberta on the Government of Alberta to take immediate steps to ensure that First Nations are meaningfully consulted and accommodated regarding the management and allocation of water in Alberta, particularly with respect to the potential impact of such decisions on First Nations' right to use and benefit from our reserve lands, including water resources that form part of our reserve lands, and the sustainability of our Treaty hunting, fishing, gathering, trapping and other Treaty and Aboriginal Rights.

3. Chiefs-in-Assembly join with the Assembly of Treaty Chiefs of Alberta in inviting the Government of Alberta, and in particular the Minister of Environment, to enter into good faith negotiations with the goal of resolving the issues identified in this resolution.

4. In the event that the Government of Alberta fails to uphold the honor of the Crown by disregarding its constitutional duty to consult and accommodate, the Assembly of Treaty Chiefs of Alberta will consider all such further actions considered necessary to maintain and protect reserve lands, Treaty water rights, and other Treaty and Aboriginal Rights.

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