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

Resolution no. 49/2008

SUBJECT:	GOVERNMENT OF CANADA'S PROPOSED DRINKING WATER LEGISLATION
MOVED BY:	Chief Cameron Alexis, Alexis Nakota Sioux Nation, AB
SECONDED BY:	Chief Carolyn Buffalo, Montana First 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. Minister of Indian Affairs, Chuck Strahl, has provided assurances to Grand Chiefs of Treaties 6, 7 & 8 and other First Nation leadership that Canada's proposed drinking water legislation will only address water quality, and not water quantity or allocation;

C. Despite the Minister's assurance, Indian Affairs officials have informed First Nation representatives that the allocation provisions regarding priority and licensing, that are elements of various provincial laws, will be incorporated by reference by Canada in proposed new drinking water legislation;

D. In the case of Alberta, 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;

E. The management and allocation of water resources off-reserve by provincial Governments and the National and Historic Parks 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; and

F. The Government of Canada has failed to take steps to satisfy its constitutional duty to consult with and accommodate the First Nations in relation to Canada's proposed new drinking water legislation.

Certified copy of a resolution adopted on the 9th day of December, 2008 in Ottawa, ON

THEREFORE BE IT RESOLVED that:

1. Together with the Assembly of Treaty Chiefs (Alberta), the Chiefs-in-Assembly call on the Minister of Indian Affairs to confirm, in writing, his assurance to all First Nations that Canada's new drinking water legislation will only address water quality not allocation, and will not impose the allocation provisions of any provincial legislation on First Nations.

2. The Chiefs-in-Assembly call on the Government of Canada to take immediate steps to ensure that it satisfies its constitutional duty to consult with and accommodate all First Nations regarding Canada's proposed new drinking water legislation, including meaningful discussion of the potential impacts of Canada's proposed legislation on Treaty and Aboriginal water rights and First Nations' rights to use and benefit from reserve lands.

3. In the event that the Government of Canada fails to uphold the honour of the Crown by respecting the Minister's assurance to First Nations in Alberta and by meeting its constitutional duty to consult and accommodate, the Chiefs-in-Assembly will consider all such further actions considered necessary to maintain and protect reserve lands and Treaty water rights.

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