TITLE:	Water and Wastewater Legislation
SUBJECT:	Water
MOVED BY:	Chief Shining Turtle, Whitefish River First Nation, ON
SECONDED BY:	Chief Bob Chamberlin, Kwicksutaineuk-ah-kwaw-ah-mish First Nation, BC
DECISION:	Passed provisionally by AFN Executive Committee on September 10, 2009

WHEREAS:

A. The Government of Canada has claimed to conduct "consultations" on the Development of a Proposed Legislative Framework for Drinking Water and Wastewater in First Nation Communities.

B. The Government of Canada funded regional First Nation organizations to carry out impact analysis reports on a Proposed Federal Legislative Framework for Drinking Water and Wastewater in First Nation Communities.

C. The Institute on Governance (IOG) *Summary Report of the Impact Analyses of the Proposed Federal Legislative Framework for Drinking Water and Wastewater in First Nations Communities* roll-up report submitted to INAC on April 17, 2009, concluded that "First Nations generally are no where near meeting provincial standards. Therefore, applying these standards now would be calamitous."

D. During the "consultation" sessions, First Nation leadership and technical participants voiced their objections concluding that:

- The Crown failed to engage in meaningful consultation with First Nations regarding the options and recommendations of an Expert Panel Report, dated November 2006.
- The Expert Panel Report recommended three options that First Nations have not had the benefit of considering in this round of engagement sessions.
- The Crown breached its duty to consult and accommodate First Nations by making a unilateral decision to proceed with the Engagement Sessions and Impact Analysis solely on the basis of incorporation by provincial / territorial reference.

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- The Crown did not genuinely listen to the concerns of First Nations regarding a process for the development of a new drinking and wastewater legislative framework.
- The Crown failed to provide adequate time and resources to enable meaningful consultation.
- The Crown has clearly communicated that it is unwilling to engage in discussion of any Inherent, Treaty or Aboriginal rights related issues. This is a fundamental flaw in Canada's attempted effort to consult.

E. This process does not respect the legal duty to consult, accommodate and seek free, prior and informed consent on matters that impact First Nations' inherent, Treaty and Aboriginal rights.

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

1. Oppose Canada's attempts to impose a proposed legislative framework for drinking water and wastewater that does not meet the needs or interests of First Nations nationally, nor was it advanced in a manner that meets the Crown's duty to adequately consult and accommodate First Nations.
2. Direct the Assembly of First Nations to seek capacity and resources to advance a political strategy to oppose Canada's attempts to advance a proposed legislative framework for drinking water and wastewater on the basis of provincial / territorial standards incorporated by reference, and to advance a legal strategy if necessary.
3. Call on the Government of Canada to provide full transparency and full disclosure of all broadly relevant information, recommendations, and reports regarding any decision contemplated by the Government on the direction to be taken regarding the Proposed Legislative Framework, without delay.
4. Call on the National Chief to seek a meeting with the Ministers of Indian and Northern Affairs Canada and Health Canada on an urgent basis to address First Nation's concerns with respect to Canada's failure to engage First Nations appropriately.

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