



# First Nations Clean Water Act (C-61) Update Meeting

# DRAFT LEGISLATION OVERVIEW

## 'First Nations Clean Water Act

Bill C-61 includes language regarding key areas that First Nations across Canada have consistently advocated for. The current proposed legislation now includes several critical requirements, such as:

- Recognition of **rights** over source waters.
- Minimum **binding** national standards.
- Legal commitment to a **funding framework**.
- **Liability protection** for water service employees of First Nations governments
- A **First Nations-led** Water governance structure
- Mechanisms to address co-management of **transboundary source waters**.

# KEY LEGISLATIVE HIGHLIGHTS

## **Funding**

The proposed legislation outlines obligations to consult and cooperate with First Nations on the development of a funding framework and the allocation of funds.

## **First Nations Water Commission**

Legislative and financial commitments to collaboratively develop a First Nation Water Commission with rights holders that can support First Nations water management.

## **Private and Decentralized Systems**

The proposed legislation includes private collection in the definition of water services including wells, rainwater collection, cisterns, and private water systems.

## **Protection Zones**

The proposed legislation provides for the protection of water and source water in protection zones off-reserve, supporting

## **Water Quantity**

Availability of water must meet the drinking, cooking, sanitation, hygiene, safety, fire protection and emergency management needs of the First Nation

# OUTSTANDING ISSUES

Legislation falls short of recognizing First Nations inherent and Treaty rights to water and focuses on the right to self-government under S. 35

Decision-making is merely guided by the “principle” of free, prior, and informed consent

Protection Zones can only be established with First Nation, federal, provincial/territorial consent and must be adjacent to reserve lands

Funding is not legislated, rather a funding framework which the Minister must “make best efforts” to develop a funding framework within 7 months “in consultation and cooperation” with First Nations

## RIGHTS & TRANSBOUNDARY ISSUES

## GOVERNANCE

The scope, funding and creation of a First Nations Water Commission is unclear



## FUNDING

## STANDARDS & REGULATIONS

There is no legislative obligation to co-develop regulations and standards

# CO-DEVELOPMENT PROCESS

**AFN Resolution 88/2017** directed the AFN to establish a joint Working Group comprised of AFN Chiefs Committee on Housing and Infrastructure, regional technicians, federal representatives, legal counsel for AFN and the federal government, and other experts, as necessary, **to co-develop a draft framework for new legislation.**

In late 2017, the Federal Government acknowledged that a **First Nations-led process** would be initiated to replace the Act. Formal engagements were hosted between 2018 – 2022 by the AFN in conjunction with regional PTO's

Since then, the AFN passed an **Emergency Resolution – 01/2022** in December 2022 at the Special Chiefs Assembly calling for the following minimum requirements for the co-developed draft legislation:

- a. Recognition of First Nations rights and jurisdiction over lands and waters;
- b. Mandatory requirements for Canada to provide water and wastewater treatment that meets minimum national standards (or where requested, the more stringent of the federal requirements or provincial standards governing residential water quality);
- c. A commitment to adequate and sustained funding (including at a minimum, capital, operations & maintenance and inspections) to address water and wastewater;
- d. Mechanisms to address transboundary waters;
- e. Liability protection for owners and operators; and,
- f. Governance structures that ensure First Nations are decision-makers in the provision of water and wastewater services.

# WATER CLASS ACTION

The First Nations Drinking Water Class Action Settlement, which formally concluded in March 2023 is an \$8 billion agreement between Canada and some First Nations and First Nations who chose to opt into the class action to provide compensation for Canada's failure to ensure safe drinking water access to First Nations on reserve.

The settlement includes:

**\$1.8 billion for individuals and impacted First Nations**

**\$6 billion for the construction, operation, and maintenance of water infrastructure on First Nations land**

**Legal obligations, including the development of First Nations-specific legislation for Canada to end drinking water advisories and ensure that First Nations have unfettered access to safe drinking water**

# SAFE DRINKING WATER

WELCOME!!

You can't control  
Water  
You work with it!

Stable  
predictable  
SECURE FUNDING  
FOR OUR NEEDS  
Fair wages  
sufficient

EQUITY  
CAPACITY BUILDING

timelines are important

RIGHTS TO SELF-GOVERNMENT  
THIS IS HOW WE SEE · THIS IS OUR WAY

honour indigenous  
HOLDING CANADA ACCOUNTABLE  
SELF DETERMINATION

UPSTREAM & DOWNSTREAM  
WE ARE HUMAN BEINGS  
EQUAL ACCESS FOR WATER BOTH ON AND OFF RESERVE

HONOUR RIGHTS AND TITLE HOLDERS PERSPECTIVES  
COLLABORATION  
PARTNERS  
NOT CONSULTANTS

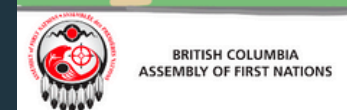
INCLUSIVE LANGUAGE · LESS COLONIAL INPUT  
CONSENT · SUPPORT  
EMPOWERMENT

WE ARE ALL INTERCONNECTED



HOW DO WE RESPECT WATER  
OUR LAWS AND WAYS WILL BE THE SOLUTION TO 21<sup>st</sup> CENTURY PROBLEMS

WATER IS ALWAYS MOVING, SO SHOULD WE!



# PARLIAMENTARY PROCESS



## ***C-61 1st and 2nd Reading***

Readings took place in Winter 2024 and transitioned into the Committee stage on June 5, 2024 with the Indigenous and Northern Affairs Committee (INAN)



## ***September Committee Sitzings***

INAN Committee will resume on September 16th, 2024



## ***Participation***

First Nations can request to appear as a witness on INAN Committee or provide a written submission



# LEGISLATIVE PROCESS

The legislative process for a bill like Bill C-61 in Canada involves several stages in both the House of Commons and the Senate.

Below is a summarized overview of the process:

## House of Commons

**First Reading:** The bill is introduced, and its title is read. No debate occurs at this stage.

**Second Reading:** Members of Parliament (MPs) debate the principle and purpose of the bill. A vote is taken. If it passes, the bill moves to the committee stage.

**Committee Stage:** The bill is reviewed in detail by a committee of MPs. The committee can hear from witnesses, examine the bill clause by clause, and propose amendments.

**Report Stage:** The committee reports the bill back to the House with or without amendments. MPs debate the report and can propose further amendments.

**Third Reading:** The final version of the bill is debated. MPs vote on the bill. If it passes, the bill is sent to the Senate.

# LEGISLATIVE PROCESS

## Senate

**First Reading:** The bill is introduced in the Senate, and its title is read. No debate occurs at this stage.

**Second Reading:** Senators debate the principle and purpose of the bill. A vote is taken. If it passes, the bill moves to the committee stage.

**Committee Stage:** The bill is reviewed in detail by a Senate committee. The committee can hear from witnesses, examine the bill clause by clause, and propose amendments.

**Report Stage:** The committee reports the bill back to the Senate with or without amendments. Senators debate the report and can propose further amendments.

**Third Reading:** The final version of the bill is debated. Senators vote on the bill. If it passes without amendments, it proceeds to Royal Assent. If amended, it returns to the House of Commons for concurrence on the amendments.

**Royal Assent:** Once both the House of Commons and the Senate pass the bill in the same form, it is presented to the Governor General for Royal Assent. After receiving Royal Assent, the bill becomes law and is known as an Act of Parliament.