

**Bill C-61: An Act Respecting Water, Source Water, Drinking Water,
Wastewater and Related Infrastructure on First Nation Lands**

Short Title: First Nations Clean Water Act

Assembly of First Nations

Backgrounder

Updated as of November 15, 2024

TABLE OF CONTENTS

Mandates

Background

Current Status

Legal Analysis

INAN Brief and Potential Amendments

Analysis and Environmental Scans

Legislative Interventions

Mandates

The Assembly of First Nations (AFN) has engaged with First Nations specifically on the co-development of water and wastewater legislation, based on significant direction received from the First Nations-in-Assembly. The AFN builds on decades of advocacy and engagement, in addition to many resolutions on water and wastewater. Resolutions are the essential mechanism by which First Nations provide specific mandates and direction to the AFN.

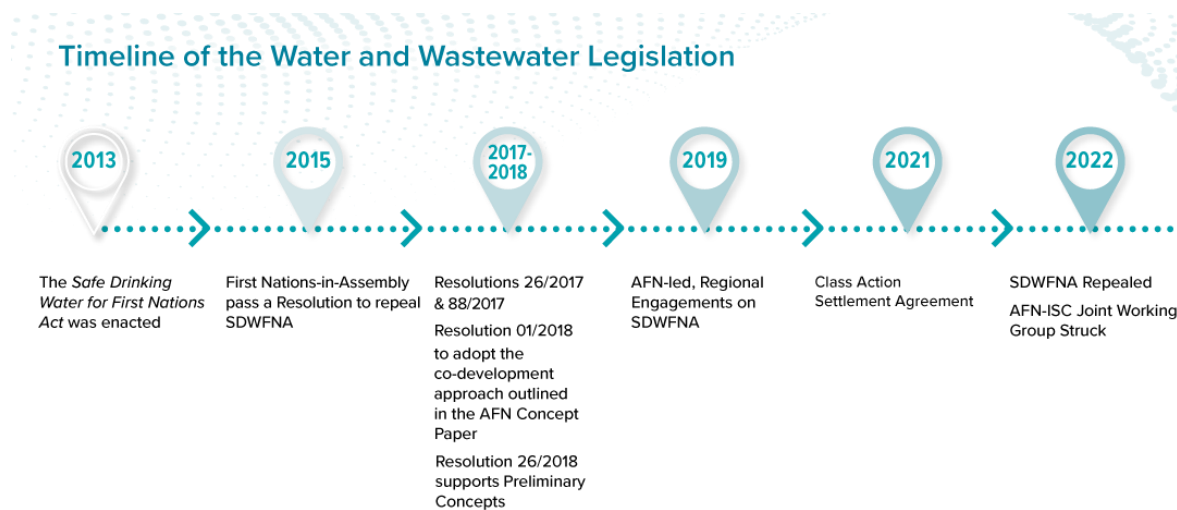
The AFN has substantial direction by the First Nations-in-Assembly through significant resolutions including:

1. **Resolution 12/2009** – *Water and Wastewater Legislation*
2. **Resolution 19/2009** – *Support for Empty Glass for Water Campaign*
3. **Resolution 42/2009** – *Government of Canada's Proposed First Nations Safe Drinking Water Act*
4. **Resolution 43/2010** – *Impact Analysis of Proposed Federal Legislation Bill S-11*
5. **Resolution 58/2010** – *Bill S-11, Safe Drinking Water for First Nations Act*
6. **Resolution 34/2011** – *First Nations and the Human Right to Water*
7. **Resolution 35/2011** – *Water Rights and Consultation with First Nations*
8. **Resolution 74/2011** – *Call for Investments to Respond to the National Water and Wastewater Engineering Assessment Report*
9. **Resolution 20/2012** – *National First Nations Water Strategy*
10. **Resolution 45/2012** – *Implementation of a National First Nations Water Strategy*
11. **Resolution 80/2012** – *Support for Fort Nelson First Nation Call for a Moratorium on all Water Act Licensing for Fracking*
12. **Resolution 81/2012** – *Following Indigenous Protocols and Ceremonies with Respect to Water*
13. **Resolution 38/2013** – *Support for Marcel Colomb First Nation and Funding for Piped Sewer Collection and Wastewater Distribution and Other Community Infrastructure*
14. **Resolution 29/2014** – *Right to Safe Drinking Water on Reserve*
15. **Resolution 65/2015** – *Support for First Nations for the Safe Water Project*
16. **Resolution 70/2015** – *Support for Housing, Water and Infrastructure*
17. **Resolution 74/2015** – *First Nations Water, Infrastructure and Housing Commission*
18. **Resolution 76/2015** – *Safe Drinking Water for First Nations*
19. **Resolution 46/2016** – *Support Maskwacis Boil Water Advisories: "Shoot-Out" Wastewater Systems and Shock Chlorination*
20. **Resolution 26/2017** – *Safe Drinking Water for First Nations Act (the Act)*
21. **Resolution 51/2017** – *Accessing Federal Funding for Safe Drinking Water*
22. **Resolution 88/2017** – *First Nations led Engagement Process for Safe Drinking Water Legislation*
23. **Resolution 01/2018** – *First Nations led Process to Develop New Federal Safe Drinking Water Legislation*
24. **Resolution 26/2018** – *Support for a First Nations Safe Drinking Water Legislation – Preliminary Concepts*
25. **Resolution 14/2019** – *Endorsement of the Refined Preliminary Concepts for Repeal and Replacement of the Safe Drinking Water for First Nations Act*

26. **Resolution 53/2019** - *Human Right to Clean Drinking Water*
27. **Resolution 78/2019** - *Endorsement of the Preliminary Table of Contents for a First Nations Long-Term Water and Wastewater Strategy Post-2021*
28. **Resolution 27/2021** - *Meaningful engagement and involvement in the co-development of the Canada Water Agency*
29. **Resolution 28/2021** - *Support for First Nations Decentralized Infrastructure*
30. **Resolution 43/2021** – *Support for First Nations Inherent Rights, Title and Jurisdiction of Water Stewardship, including the Traditional Roles of First Nations Women*
31. **Resolution 23/2022** - *Re-Commitment to Co-Development of Replacement Legislation for Safe Drinking Water for First Nations*
32. **Resolution 47/2023** - *Proposed Federal First Nations Drinking Water and Wastewater Legislation*
33. **Resolution 53/2023** - *First Nations-led Process for National Water Stewardship and the Canada Water Agency*
34. **Resolution 43/2024** – *Bill C-61 First Nations Clean Water Act*

Background

Since the enactment of the *Safe Drinking Water for First Nations Act* (the Act) in 2013, the AFN has called on Canada to uphold its obligation to obtain free, prior, and informed consent on a matter that impacts the rights and interests of First Nations rights-holders, by undertaking proper consultations with First Nations on repealing and replacing the *Safe Drinking Water for First Nations Act*.



The Act was heavily criticized for lack of meaningful engagement and consultation with First Nations, inadequate resources to implement the regulations, and increased liability for First Nations.

The AFN initiated engagement efforts that same year, advocating for the Act's repeal and supporting First Nations-led approaches to developing new legislation.

In 2015, First Nations-in-Assembly passed **Resolution 76/2015**, *Safe Drinking Water for First Nations*, which first mandated the AFN to call on the Prime Minister and the Minister of Indigenous and Northern Affairs for the repeal and the replacement of the Act. It also advocated for the necessary capital investments, operations and maintenance funding, personnel, and training to eliminate drinking water advisories in all First Nations.

In 2017, First Nations-in-Assembly passed **Resolution 26/2017**, *Safe Drinking Water for First Nations Act*, and **Resolution 88/2017**, *First Nations led Engagement Process for Safe Drinking Water Legislation*, which mandated the AFN to co-develop a draft framework for new First Nations safe drinking water legislation.

In 2018, **Resolution 01/2018**, *First Nations Led Process to Develop New Federal Safe Drinking Water Legislation*, and **Resolution 26/2018**, *Support for a First Nations Preliminary Concepts*, were passed which directed the AFN to support the co-development of the legislation based on the preliminary concepts and in a manner that affirms and ensures First Nations rights, interests, aspirations, inherent rights and laws, standards, guidelines and processes, and proceed with First Nation engagement.

Since 2018, the AFN has prioritized engagements to discuss the content of new legislation, particularly focusing on the co-development of water and wastewater legislation, guided by the direction from First Nations-in-Assembly.

In 2019, First Nations-in-Assembly passed **Resolution 14/2019**, *Endorsement of the Refined Preliminary Concepts for Repeal and Replacement of the Safe Drinking Water for First Nations Act*.

In 2019, the AFN began engagements to replace the *Safe Drinking Water for First Nations Act*. Over the years, feedback from First Nations has been collected through:

- Seven AFN Water Symposiums.
- Four AFN Virtual Water Summits.
- 24 regional engagement sessions engaging over 1500 people in regionally hosted engagements.
- Regular updates to AFN-supported Regional Water Coordinators (RWCs), AFN's Chiefs Committee on Housing and Infrastructure (CCoHI), and the Advisory Committee on Climate Action and the Environment (ACE).
- Presentations to regions, plenaries, and dialogue sessions during AFN Annual General Assemblies and AFN Special Chiefs Assemblies.
- Communications via email and regular AFN website updates.

The United Nations Declaration on the Rights of Indigenous Peoples Act (S.C. 2021, c.14) (UNDA), was proclaimed on June 21, 2021.

The Class Action Litigation on Drinking Water Advisories on First Nations Settlement Agreement was signed and approved in 2021.

On June 23, 2022, repeal of the *Safe Drinking Water for First Nations Act* received Royal Assent. The AFN and First Nations across Canada advocated for stronger, more effective legislation.

Since September 2022, drafting of the replacement legislation has been guided by a Joint Technical Working Group tasked with co-developing the new legislation by agreement between the AFN and Canada.

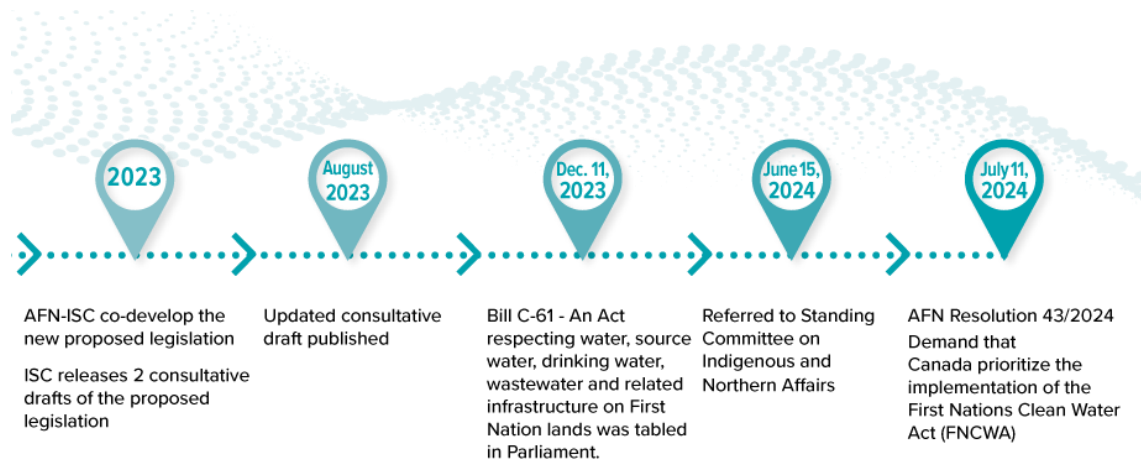
Initial attempts at co-developing this legislation were challenging and imperfect, highlighting critical lessons to be learned.

In December 2022, with **Resolution 23/2022**, *Re-Commitment to Co-Development of Replacement Legislation for Safe Drinking Water for First Nations*, the working group began to meet weekly.

A recommitment was necessary to ensure the proposed legislation contains the necessary minimum requirements that have been articulated by First Nations.

The co-development group consisted of representatives from Indigenous Services Canada and the Assembly of First Nations appointees, former National Chief Phil Fontaine as political lead, and former M'Chigeeng Chief, Linda Debassige, as technical lead, with support from the AFN Secretariat.

Ensuring the proposed legislation meets these minimum standards is essential for upholding Canada's commitments under the UNDA.



This co-developed proposed legislation provided a means to address challenges faced by First Nations across Canada.

Without it, First Nations will continue to experience the detrimental impacts to health and well-being, constant states of emergency, limited economic development opportunities, and related disadvantages.

All ministers, across the portfolios of infrastructure, environment, fisheries, justice, health, and more, have distinct roles to play to ensure safe and reliable water and wastewater management in First Nations.

As the AFN and Canada continue to work on joint priorities and Co-Development Principles, it is hoped that the progress made with Bill C-61 will be used as a model for future legislative efforts, both in terms of what is effective, and where further improvement is needed.

Engagement is a critical piece of effective co-development.

Ensuring processes are adequate to meet the duty to consult and enabling First Nations' rights-holders to provide their free, prior and informed consent on all matters that impact their unique rights and interests is fundamental to successful co-development.

The AFN has supported resolutions and their implementation, ensuring that these are relevant and actionable through necessary discussions and engagement with First Nations-in-Assembly.

Specifically, on February 17, 2023, with the public distribution of the initial consultative draft of the proposed legislation, the AFN supported regional engagements on the content of the proposed legislation to inform subsequent advocacy efforts.

It was through the 2023 activities that the AFN successfully urged Canada to delay tabling the legislation to address urgent and significant issues highlighted in previous engagements and the 2023 findings.

On July 21, 2023, Canada released an updated consultation draft of a legislative proposal with First Nation rights-holders and organizations for further feedback. The updated consultation draft of a legislative proposal was published on ISC's website on August 4, 2023. Feedback provided at that stage resulted in additional changes to the final proposed legislation tabled in the House of Commons, although not all of the First Nations proposals were integrated into Bill C-61.

On Dec 11, 2023, Minister of Indigenous Services, Patty Hajdu, moved to introduce into First Reading, Bill C-61, An Act respecting water, source water, drinking water, wastewater and related infrastructure on First Nation lands.

At the AFN Annual General Assembly on July 11, 2024, with **Resolution 43/2024 – Bill C-61 First Nations Clean Water Act** the First Nations-in-Assembly called on Canada to prioritize the implementation of the First Nations Clean Water Act.

Current Status

Bill C-61 progressed to Second Reading on February 5.

On June 5, 2024, Second Reading was concluded. Bill C-61 was referred to the Standing Committee on Indigenous and Northern Affairs (INAN).

INAN held meetings on Bill C-61 on June 12, 17 and 19, September 16, 19, 23 and 26, October 3, 7, 10 and 31, and November 4, 6, and 7, 2024.

The bill has been studied 14 times at INAN and the Committee heard from 65 witnesses who have appeared 82 times, and has received 18 written briefs to date (as of November 15).

June 12, 2024

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<https://www.ourcommons.ca/DocumentViewer/en/44-1/INAN/meeting-114/minutes>

<https://www.ourcommons.ca/documentviewer/en/44-1/INAN/meeting-114/evidence>

June 17, 2024

<https://parlvu.parl.gc.ca/Harmony/en/PowerBrowser/PowerBrowserV2?fk=12802507>

<https://www.ourcommons.ca/documentviewer/en/44-1/INAN/meeting-115/minutes>

<https://www.ourcommons.ca/DocumentViewer/en/44-1/INAN/meeting-115/evidence>

June 19, 2024

<https://parlvu.parl.gc.ca/Harmony/en/PowerBrowser/PowerBrowserV2?fk=12824109>

<https://www.ourcommons.ca/documentviewer/en/44-1/INAN/meeting-116/minutes>

<https://www.ourcommons.ca/documentviewer/en/44-1/INAN/meeting-116/evidence>

On June 21, Parliament adjourned for the summer and resumed on September 16. INAN Committee resumed the study of Bill C-61 and held meetings on:

September 16, 2024

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<https://www.ourcommons.ca/documentviewer/en/44-1/INAN/meeting-117/minutes>

<https://www.ourcommons.ca/DocumentViewer/en/44-1/INAN/meeting-117/evidence>

September 19, 2024

<https://parlvu.parl.gc.ca/Harmony/en/PowerBrowser/PowerBrowserV2?fk=12850301>

<https://www.ourcommons.ca/DocumentViewer/en/44-1/INAN/meeting-118/minutes>

<https://www.ourcommons.ca/documentviewer/en/44-1/INAN/meeting-118/evidence>

September 23, 2024

<https://parlvu.parl.gc.ca/Harmony/en/PowerBrowser/PowerBrowserV2?fk=12863074>

<https://www.ourcommons.ca/documentviewer/en/44-1/INAN/meeting-119/minutes>

<https://www.ourcommons.ca/documentviewer/en/44-1/INAN/meeting-119/evidence>

September 26, 2024

<https://parlvu.parl.gc.ca/Harmony/en/PowerBrowser/PowerBrowserV2?fk=12863075>

<https://www.ourcommons.ca/DocumentViewer/en/44-1/INAN/meeting-120/minutes>

<https://www.ourcommons.ca/documentviewer/en/44-1/INAN/meeting-120/evidence>

October 3, 2024

<https://parlvu.parl.gc.ca/Harmony/en/PowerBrowser/PowerBrowserV2?fk=12874650>

<https://www.ourcommons.ca/documentviewer/en/44-1/INAN/meeting-121/minutes>

<https://www.ourcommons.ca/documentviewer/en/44-1/INAN/meeting-121/evidence>

October 7, 2024

<https://parlvu.parl.gc.ca/Harmony/en/PowerBrowser/PowerBrowserV2?fk=12880613>

<https://www.ourcommons.ca/documentviewer/en/44-1/INAN/meeting-122/minutes>

<https://www.ourcommons.ca/DocumentViewer/en/44-1/INAN/meeting-122/evidence>

October 10, 2024 – National Chief Cindy Woodhouse Nepinak appearance.

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<https://www.ourcommons.ca/documentviewer/en/44-1/INAN/meeting-123/minutes>

<https://www.ourcommons.ca/DocumentViewer/en/44-1/INAN/meeting-123/evidence>

October 31, 2024

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<https://www.ourcommons.ca/DocumentViewer/en/44-1/INAN/meeting-127/minutes>

<https://www.ourcommons.ca/DocumentViewer/en/44-1/INAN/meeting-127/evidence>

November 4, 2024 – Clause-by-clause review began.

<https://parlvu.parl.gc.ca/Harmony/en/PowerBrowser/PowerBrowserV2/20241104/-1/42571?Embedded=true&globalstreamId=20&viewMode=3>

<https://www.ourcommons.ca/DocumentViewer/en/44-1/INAN/meeting-128/minutes>

<https://www.ourcommons.ca/DocumentViewer/en/44-1/INAN/meeting-128/evidence>

November 6, 2024

<https://parlvu.parl.gc.ca/Harmony/en/PowerBrowser/PowerBrowserV2?fk=12973674>

<https://www.ourcommons.ca/DocumentViewer/en/44-1/INAN/meeting-129/minutes>

<https://www.ourcommons.ca/documentviewer/en/44-1/INAN/meeting-129/evidence>

November 7, 2024

<https://parlvu.parl.gc.ca/Harmony/en/PowerBrowser/PowerBrowserV2?fk=12962832>

<https://www.ourcommons.ca/documentviewer/en/44-1/INAN/meeting-130/minutes>

<https://www.ourcommons.ca/documentviewer/en/44-1/INAN/meeting-130/evidence>

The next meetings on Bill C-61 will be on November 18, 20, and 21. The meeting on November 25 will not focus on Bill C-61.

INAN Committee Study Phase:

Usual order of business for committee study leading to a report



Source: Our Commons Website

Legal Analysis

Cited as short title, First Nations Clean Water Act, Bill C-61, An Act respecting water, source water, drinking water, wastewater and related infrastructure on First Nation lands represents a significant step forward in addressing the longstanding issues surrounding water and wastewater management in First Nations across Canada. The proposed legislation aims to provide a robust legal framework to ensure safe, reliable, and sustainable water services for First Nations.

INAN Brief and Potential Amendments

The AFN brief with proposed amendments was submitted into evidence on October 9, 2024.

[AFN Brief \(English\)](#) [\(French\)](#)

The AFN will seek to strengthen the proposed legislation with proposed amendments, including but not limited to:

- Replace references to “Best Efforts” where a commit is imperative
- Affirm water services as an essential service
- Language to commit to Funding Framework
- Jurisdiction
- Immediately fill the Regulatory Gap with standards
- Free, Prior and Informed Consent and Duty to Consult

Analysis and Environmental Scans

The AFN conducts on-going analysis of the comments and concerns presented at the House of Commons, discussed at the INAN committee and by Ministers and Members of Parliament in the media. The AFN is continually conducting environmental scans and obtaining feedback from various First Nations, rights-holders, and organizations.

Legislative Interventions

National Chief Cindy Woodhouse Nepinak provided testimony to INAN on October 10.

[Press Conference](#) and Press Release [\(English\)](#) and [\(French\)](#)

The scheduled timeline has been revised as INAN will prioritize Bill S-16, An Act Respecting the recognition of the Haida Nation and the Council of the Haida Nation. The meetings on S-16 will take place on October 21 with clause-by-clause consideration beginning on October 24, 2024.

INAN will conclude their study and analysis of Bill C-61, which includes a clause-by-clause review that began on [November 4](#). The committee will proceed to the Report Stage where members may propose motions to amend the text of the Bill.

At Third Reading, the House of Commons will debate the final form of the Bill and a motion will be presented to adopt the Bill.

The Bill will then proceed to the Senate for consideration and passage. The Senate follows a similar legislative process to the one in the House of Commons. The Senate may make amendments to a Bill or adopt the Bill without amendment.

Royal assent is the stage that a bill must pass before officially becoming an act of Parliament. A bill will not be given royal assent unless it has gone through all the stages of the legislative process and has been passed by both Houses in identical form.

How a bill becomes a law:

