

SAFE DRINKING WATER FOR FIRST NATIONS ACT: Recommendations on Amendments to Respond to First Nations Concerns

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The *Safe Drinking Water for First Nations Act (SDWFNA)* is a Federal Act that affects all First Nation communities across Canada. The *SDWFNA* was created with the intention to fill a gap in Federal law to provide regulations and standards for providing safe drinking water and waste water management in First Nation communities.

As the *SDWFNA* went through the Parliamentary process of becoming law, there were many concerns from First Nation leaders, legal professionals and members of parliament about how the *Act* was created. Some of the reasons why the *Act* has been criticized are because:

- There was a lack of adequate and meaningful consultation.
- Despite previous recommendations, First Nation peoples were not involved in drafting the legislation.
- It creates liabilities to First Nation communities for the implementation of regulations, while there is no funding attached to support implementation.

As a result of these concerns and the lack of response from the Federal government, the *SDWFNA* continues to be criticized and there have even been calls for it to be repealed.

Currently, the *SDWFNA* is going through an engagement process, which aims to get feedback from First Nation communities and technicians about the *Act*. Based on the feedback received from the engagement sessions, the Federal Government will decide on whether the *Act* should be amended, repealed, or just left as it is.

I make conditional recommendations on amendments to the SDWFNA that I believe respond to the concerns of First Nations. The recommendations include:

- Meeting the following preconditions before/in addition to amending the *SDWFNA*:
 1. Develop and implement an immediate action strategy to provide safe drinking water and waste water infrastructure in First Nation communities that have long-term boil water advisories and communities without running water infrastructure.
 - Conduct assessments about what infrastructure, upgrades and resources are needed.
 2. Commit to meaningfully include First Nations in the drafting of amendments to the *SDWFNA* or a new act.
- Amending the SDWFNA to include:
 - **A True Non-Derogation Clause** - *A non-derogation clause will ensure that Aboriginal and Treaty rights are protected.*
 - **A Funding Provision** - *A funding provision will ensure that First Nation communities will have access to resources to implement regulations from the SDWFNA.*
 - **First Nation Authority/Self-Determination Provision** - *A provision that respects First Nation self-determination rights to make decisions regarding their communities.*

If at the end of these engagement sessions there are not sufficient changes to the *Act* that reflect the views of First Nations, then I believe that the *Act* should be repealed and the legislation should be redrafted. Not making any changes to the current *SDFWNA* is ignoring First Nations concerns about an *Act* that directly affects their communities, and goes against the Federal commitment to enter into an era of reconciliation with First Nation peoples.