

# Water



## ALTERNATIVE FEDERAL BUDGET 2017 / WATER

### HIGH STAKES

- There were 158 drinking water advisories in First Nation communities in fall 2016.
- 99% of lakes and rivers in Canada are not protected by the Navigation Protection Act from potentially harmful activities.
- The proposed Energy East pipeline alone, of several new pipeline projects under consideration, puts 2,963 waterways at risk.
- 205 billion litres of raw sewage was flushed into waterways in Canada in 2015.

### CLEAR CHOICES

- Strengthen water and wastewater infrastructure in municipalities and First Nations.
- Fund robust environmental assessments and strong water science and research.
- Safeguard the Great Lakes, groundwater, and other freshwater sources.
- Create a National Public Water and Wastewater Fund to replace poor infrastructure.

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#AFB2017

## Background

Canada needs to put water protection and water justice at the heart of all policies and practices affecting water sources and services. The government could take a step in that direction by recognizing water as a human right, a shared commons, and a public trust.

The notion of the “commons” asserts that water is a common heritage to be shared, protected, managed, and enjoyed by all. A commons framework requires a shift in water governance to prioritize the human right to water, Indigenous water rights, and public participation in the decision-making process. Public trust principles require governments to protect water sources for com-

munities’ reasonable use, and to make private use subservient to community rights.

Beginning in 2010, the United Nations passed several resolutions recognizing the human right to water and sanitation. These intentions were asserted again in the 2015 Sustainable Development Goals. The UN Human Rights Council has called on governments to develop comprehensive plans and strategies for water management, assess the implementation of these plans of action, ensure affordable water services for everyone, and create accountability mechanisms and legal remedies.

The Canadian government recognized the human right to water and sanitation at the 2012 UN Conference on Sustainable De-

velopment, but it has yet to take action to make these rights meaningful. If “Canada is back” on the international stage, as the Prime Minister has stated, now is the time to implement the human rights to water and sanitation with federal legislation and adequate funding.

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## Current Issues

### Drinking Water in Indigenous Communities

Prime Minister Trudeau promised during the 2015 election campaign to end boil water advisories on First Nations within five years of forming a Liberal government. There were 158 drinking water advisories on 111 First Nations in fall 2016.<sup>1</sup> There are routinely over 100 water advisories in effect, with some communities having lived under advisories for nearly 20 years.<sup>2</sup> The Safe Drinking Water for First Nations Act sets high standards for water quality but fails to allocate enough funding to meet them. In 2011, a government study estimated that \$889 million is needed every year for First Nations water and wastewater facilities including projected operating and maintenance. (For further details see the First Nations chapter.)

### Public Water and Wastewater Infrastructure

According to the 2016 Canadian Infrastructure Report Card, one-third of Canada’s municipal infrastructure is at risk of rapid deterioration, 36% of wastewater infrastructure is rated in fair to poor condition, and 29%

of drinking water infrastructure is in fair to very poor condition.<sup>3</sup> The total replacement value of water, wastewater, and stormwater assets is \$575 billion, according to the same report. The Federation of Canadian Municipalities (FCM) estimates the cost of replacing systems graded “poor” or “very poor” to be about \$61 billion.<sup>4</sup> The Liberal government committed \$2 billion over four years for its new Clean Water and Wastewater Fund.

Over 205 billion litres of raw sewage was flushed into waterways in Canada in 2015.<sup>5</sup> The federal government has introduced stricter wastewater standards, but again these did not come with adequate funds for municipalities. The FCM calculates that the regulations will cost at least \$20 billion for plant upgrades alone. The federal government should be working with provincial governments to harmonize reporting requirements, with the goal of reducing the cost of administering regulations.

### Sustaining Water Sources through Science, Research and Regulation

The previous Conservative government clawed back much-needed legislation and funding for water and environmental protection during its nine years in power. For example, as a result of reforms to the Navigable Waters Protection Act (now the Navigation Protection Act), 99% of lakes and rivers are unprotected from activities that restrict their navigability. The Fisheries Act was also gutted by the previous government in such a way that it no longer protects fish and fish habitat. The Canadian Environmental Assessment Act (CEAA) was weakened to

the point that 3,000 environmental assessments were cancelled in 2012, and many oil and gas and other projects no longer trigger environmental assessments.

Last summer, six federal ministers whose mandates include water announced they would review legislation that was substantially weakened by the Conservative government. The reviews focused on the National Energy Board, the CEEA, the Fisheries Act and the Navigation Protection Act (NPA). The government created two expert panels to examine how the National Energy Board and the federal environmental assessment process approve projects, an effort that included public consultations on the CEEA. Two standing committees — on transport, infrastructure and communities, and on fisheries and oceans — reviewed the NPA and the Fisheries Act respectively. The expert panels and standing committees planned to table their recommendations to the federal government in early 2017.

Starting in 2016-17, the federal government allocated \$14.2 million over four years to the Canadian Environmental Assessment Agency, and \$197.1 million over five years to Fisheries and Oceans Canada to increase ocean and freshwater science, monitoring, and research activities. This money included \$1.7 million over two years for the Experimental Lakes Area. However, departmental reports on plans and priorities show the trend set by the Conservative government of gutting funding for water programs at Environment and Climate Change Canada and at Fisheries and Oceans Canada, as well as for Transport Canada's Navigation Protection Program, will continue in 2017 and beyond.

## **Protecting Watersheds From Extreme Energy Projects**

Extreme energy projects are defined as such because they require more water, energy, and effort to realize, and are more destructive to watersheds, the environment, and surrounding communities, than conventional energy development.<sup>6</sup> The extraction of extreme energy, such as fracked gas and tar sands oil, and their transportation via pipeline, rail and ships, leave municipalities and Indigenous communities vulnerable to potentially high clean-up and health care costs.

For fracking, these costs include drinking water contamination, poor air quality, earthquakes, health risks, and increased greenhouse gas emissions. Atlantic provinces have placed moratoria on fracking, but governments in Western Canada continue to endorse the risky practice. There are up to 20 proposals to build liquefied fracked gas (LFG) plants along the coast of British Columbia, which would see supertankers transport fracked gas for export.

The Conservative government's legislative changes to the NPA and CEEA eliminated and/or scaled back reviews of major pipeline projects such as TransCanada's Energy East pipeline, Kinder Morgan's Trans Mountain expansion in B.C., and Enbridge's Line 9 reversal in Ontario and Quebec. These pipelines would transport tar sands bitumen or fracked oil, exacerbating climate change and putting water, food, and public health at risk. The Energy East pipeline crosses 2,963 waterways, but Transport Canada will not

assess its impacts on navigable waterways because the current NPA exempts pipelines.

Despite promising to protect freshwater and oceans, the Liberal government has approved extreme energy projects like the Site C dam in B.C., the Pacific NorthWest LFG terminal, the NOVA Gas Transmission Ltd. fracked gas pipeline (owned by TransCanada) and the Trans Mountain pipeline, signaling little change from the previous government's extractivist policies.

There is a significant lack of independent scientific data on the consequences of diluted bitumen spills in water, including how the oil reacts in waterways and the challenges involved in cleaning it up. The government must fulfil its commitment to ban tankers on B.C.'s north coast as well as LFG tankers on the Pacific coast. Extreme energy projects like the Alberta Clipper pipeline, owned by Enbridge, and unconventional oil shipments in the Great Lakes–St. Lawrence River Basin must also be banned.<sup>7</sup>

It is a myth that communities need to choose between water protection and jobs—we can have both. Mining, oil and gas, and logging sectors made up only 1.6% of jobs in Canada in 2015. Creating one million sustainable climate jobs and ensuring a just transition for workers currently employed in the extractive sectors would not only protect waterways, but also grow Canada's economy in sustainable way for future generations.

## Water Withdrawals, Bulk Water Exports and Trade Agreements

Although Canada holds nearly 20% of the world's freshwater, only 1% of it is renewable in that the water is replenished by rain or snowfall. Each year Canada exports 59.9 Bm<sup>3</sup> of virtual water (the amount of water used to produce or process a good or a service). That amount would fill the Rogers Centre in Toronto to the brim approximately 37.5 thousand times. Canada is the second highest net virtual water exporter in the world.<sup>8</sup>

Bottled water companies such as Nestlé directly withdraw from freshwater supplies, including groundwater aquifers, which are the main drinking water source for one-third of Canadian communities. A 2015 study published in *Nature Geoscience* found that only 6% of groundwater around the world is renewable.<sup>9</sup> Recent droughts in Ontario, British Columbia, and Alberta have financial impacts on farmers and the fishing industry and provide strong incentive to protect local watersheds.

In the past, right-wing think tanks in the United States and Canada have made proposals to export bulk water from Manitoba and Quebec. The federal government must ban all bulk water and bottled water exports, as these projects are tremendously costly, require vast amounts of energy, and pose serious threats to watersheds.

Water in its natural state is excluded from Canada's existing trade agreements. However, when water is commodified—when it is turned into a tradeable good or service—these agreements kick in, providing companies and individual investors with

strong tools to undermine policy affecting private water-related projects (e.g., wastewater treatment or bottled water plants). For example, Lone Pine Resources is suing Canada, under the investor–state dispute process in NAFTA, in response to Quebec’s moratorium on fracking in the St. Lawrence River — a decision made, in part, to protect water.

In 2011, Canada settled another NAFTA claim with AbitibiBowater (now Resolute Forest Products) in which the company claimed proprietary right to the water used at its former paper mill in Newfoundland and Labrador. Provincial law only granted water-taking rights to the company on the condition they were used to operate the mill. When AbitibiBowater shut down the mill, those rights should have expired. In settling the NAFTA claim, however, the Canadian government may have implicitly recognized the company’s private right to water.

By excluding water from trade agreements, and eliminating this lopsided investment protection system (see the AFB Trade chapter), the government could avert threats to water sources in Canada and avoid costly NAFTA challenges. The government must also protect the rights of municipalities, provinces, and territories to regulate water takings, and create new public monopolies for the delivery of water services and sanitation, without having to worry about trade and investment challenges.<sup>10</sup>

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## AFB Actions

### Strengthen public and community water and wastewater infrastructure

- Create a National Public Water and Wastewater Fund to replace poor infrastructure (cost: \$6.5 billion a year for six years, \$2.5 billion a year in year seven and beyond).
- Implement the Wastewater Systems Effluent Regulation (cost: \$1 billion a year over 20 years).
- Commit \$100 million annually for water infrastructure in small municipalities.
- Commit \$75 million annually for ongoing water operator training, public sector certification, and conservation programs.

### Support and fund environmental impact assessments

- Conduct assessments of all energy and mining projects; include community consultations and seek free, prior and informed consent of Indigenous communities in the process (cost: \$50 million).
- Conduct an in-depth and independent study of the effects of tar sands development on the environment and health (cost: \$30 million).
- Reinstate federal funding for water programs at the departments of Environment and Climate Change Canada, Fisheries and Oceans, and Transport Canada (cost: \$50 million).

## Ensure the safety and sustainability of freshwater in Canada

- Implement a comprehensive action plan to protect the Great Lakes (cost: \$500 million in year one and \$950 million a year in each of the following four years).
- Establish water quality and quantity monitoring frameworks; increase the number of monitoring stations, train staff in water monitoring, and create a new water minister position (cost: \$327.5 million over three years).
- Commit \$3 million toward a groundwater protection plan and \$1 million to complete a review of virtual water exports from Canada.

## Notes

- 1 Health Canada. "Drinking Water and Wastewater." Ottawa. Online at <http://www.hc-sc.gc.ca/fniah-spnia/promotion/public-publique/water-eau-eng.php#adv>; First Nations Health Authority. "Drinking Water Advisories." Online at <http://www.fnha.ca/what-we-do/environmental-health>.
- 2 Health Canada. "First Nations and Inuit Health: Drinking Water and Waste Water." Ottawa Online at <http://www.hc-sc.gc.ca/fniah-spnia/promotion/public-publique/water-eau-eng.php#szd>
- 3 Informing the Future: 2016 Canadian Infrastructure Report Card. Canadian Infrastructure. <http://www.canadainfrastructure.ca/en/index.html>
- 4 Ibid.
- 5 Elizabeth Thompson. "Billions of litres of raw sewage, untreated waste water pouring into Canadian waterways," CBC, December 12, 2016.
- 6 Informing the Future: 2016 Canadian Infrastructure Report Card
- 7 Carol Linnitt. "Why is Trudeau Backtracking On B.C.'s Oil Tanker Ban? These 86 Meetings with Enbridge Might Help Explain." DeSmog Canada, October 20, 2016.
- 8 Nabeela Rahman, Maude Barlow, and Meera Karunanathan. (2011). "Leaky Exports: A Portrait of the Virtual Water Trade in Canada." Ottawa: Council of Canadians.
- 9 Emily Chung. "Most groundwater is effectively a non-renewable resource, study finds." CBC News, November 15, 2015.
- 10 Scott Sinclair. (2015). "NAFTA Chapter 11 Investor-State Disputes to January 1, 2015." Ottawa: Canadian Centre for Policy Alternatives.