

GLASS HALF EMPTY? YEAR 1 PROGRESS TOWARD RESOLVING DRINKING WATER ADVISORIES IN NINE FIRST NATIONS IN ONTARIO

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Executive summary

After years of pressure from First Nations, Indigenous and social justice organizations, the incoming Liberal government committed to ending all First Nations long-term drinking water advisories (DWAs) within five years as part of its 2015 election platform.¹ The issue has received significant attention, and the 2016 budget proposed to invest \$1.8 billion over five years starting in 2016-17 on top of core funding to First Nations for water infrastructure, operations and management.²

Almost one year after the budget announcement, the process for attaining clean and safe drinking water for First Nations remains flawed. Changes must be made to this complex process for the federal government to maintain progress toward its goal of ending long-term DWAs. Funding alone will not resolve the issue.

A coalition of organizations has come together to monitor progress on resolving First Nations DWAs in Ontario, including the David Suzuki Foundation, Amnesty International, the Council of Canadians and Human Rights Watch. As of November 2016, Ontario has 81 DWAs in 44 First Nations, with 68 of those classified as long-term.³ The province claims the highest number of DWAs in the country.

The David Suzuki Foundation, in collaboration with the other organizations, assessed progress toward ending long-term DWAs in nine First Nations in Ontario. Data were compiled from interviews, meetings, conferences, reports and media releases, to assess the progress and challenges First Nations face in attaining clean and safe drinking water. Each organization provided input and expertise based on work it has conducted on this issue.

Our research revealed that only three First Nations are on track or have had the DWA lifted; in three First Nations, efforts are underway but there is continued uncertainty about whether the DWA will be lifted within the five year commitment; and for three First Nations, unless current processes and procedures are reformed, it is unlikely the DWA will be lifted within the committed time frame.

Constance Lake lifted its long-term DWA in 2016, but, shortly after, the water operator reported that \$793,920 in repairs was needed.⁴ This demonstrates that solutions to drinking water issues cannot be quick fixes and need to be sustainable in the long term. Nonetheless, our report reveals some bright lights from investments in innovation, such as First Nations-led water

¹ “Justin Trudeau vows to end First Nations reserve boil-water advisories within 5 years”, CBC News, October 5, 2015. <http://www.cbc.ca/news/politics/canada-election-2015-justin-trudeau-first-nations-boilwater-advisories-1.3258058> (accessed December 14, 2017)

² Government of Canada, Budget 2015: Chapter 3 – A Better Future for Indigenous Peoples, 2016. <http://www.budget.gc.ca/2016/docs/plan/ch3-en.html> (accessed December 14, 2017)

³ A long-term DWA is one that has been in place for more than one year

⁴ Personal communication, Wesley Bova, manager of technical services, Matawa First Nations Management. January 17, 2016

programs that have emerged with support from the federal government and have been successful in resolving local water issues.

Many First Nations experience chronic water issues, even when neighbouring municipalities enjoy access to safe, clean and reliable drinking water. These challenges are compounded by, and partially a result of, historical injustices First Nations face as a result of the legacy of colonialism, forced relocation, residential schools and systemic racism in Canada.⁵

The causes of DWAs are often attributed to technical factors like equipment malfunction, lack of disinfection and unacceptable microbiological quality,⁶ but past research by our organizations⁷ and current conversations with First Nation members and water technicians reveal the root causes behind the lack of progress in resolving DWAs. These, and our recommendations for addressing them, are outlined below:

1. A highly complex and cumbersome federal process

Recommendation:

- Work with First Nations to streamline and simplify the process for capital investments in water infrastructure by identifying roadblocks and reducing bureaucracy.

2. Lack of a regulatory framework to govern drinking water for First Nations

Recommendations:

- Work with First Nations to identify an appropriate regulatory framework.
- Collaborate with First Nations in co-developing and implementing source water protection and restoration plans.

3. Insufficient infrastructure funding and ineffective allocation process

Recommendation:

- Work with First Nations to establish federal funding levels and formulas for First Nations drinking water and sewage systems so that existing systems are not further degraded and water system repair and restoration is not subject to delay.

4. Lack of adequate resources for operations and management

Recommendations:

- Work with First Nations to establish federal funding levels and formulas that provide sufficient operations and management capacity to meet their needs.

⁵ See: *Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada*, http://nctr.ca/assets/reports/Final%20Reports/Executive_Summary_English_Web.pdf (accessed December 14, 2017)

⁶ According to Health Canada, 2016, the primary causes for DWAs were: disinfection (32%), equipment (30%), microbiological quality (18%), source water quality (6%), operation would compromise (8%), turbidity (6%). From AFN analysis of DWA reports.

⁷ See, for example, *Make it Safe: Canada's Obligation to End the First Nations Water Crisis*. Human Rights Watch, 2016. https://www.hrw.org/sites/default/files/report_pdf/canada0616web.pdf (accessed December 14, 2017) and Lui, Emma, *On Notice for a drinking water crisis in Canada*. Council of Canadians, 2015. <https://canadians.org/drinking-water> (accessed December 14, 2017)

- Eliminate the pay gap between water systems operators in First Nations and comparable municipalities

5. Lack of First Nations decision-making power over resolving drinking water issues in their communities

Recommendations:

- Support First Nations-led approaches to drinking water that recognize the leadership of First Nations governments and organizations.
- At the request of First Nations, support development of collaboration between First Nations and provincial governments.
- Take into account context-specific issues for First Nations, such as appropriate construction seasons.
- Fulfil government commitments to implement the United Nations Declaration on the Rights of Indigenous Peoples, particularly free, prior and informed consent for laws and regulations related to First Nations water, and the UN-recognized human right to safe drinking water and sanitation endorsed by Canada.

6. Lack of transparency in federal monitoring of progress toward ending DWAs

Recommendation:

- Increase federal transparency and reporting of budget spending and progress toward ending long-term DWAs in First Nations.

7. Lack of holistic approach to addressing clean drinking water

Recommendation:

- Ensure that water issues are not addressed in isolation but are linked to wider issues such as housing, infrastructure, training and the impacts to watersheds from industrial activities.

WHAT ARE DRINKING WATER ADVISORIES?

A drinking water advisory is a preventative measure implemented to protect public health when drinking water could be contaminated.¹ DWAs can be classified into three categories, depending on the severity and nature of the problem.

From least to most severe, these categories are:

- Boil water advisory/order: Water is fine to drink and use after it has been boiled
- Do not consume advisory/order: Water cannot be consumed
- Do not use advisory/order: Water cannot be used or consumed

It is important to note that the number of advisories in place is constantly fluctuating, and is not exhaustive. A number of First Nations and health authorities report that many DWAs go unreported or remain voluntary.