

# Commentary



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*A Macdonald-Laurier Institute special series*

## **Delivering the Basics: The Ongoing Indigenous Water Crisis in Canada**

*This is the third in a series of four articles.*

# **A summary of federal investments and program actions related to Indigenous water supplies**

**Matthew Cameron with Ken Coates**

The turn of the 21st century brought a new, and necessary, focus to drinking water in Canada. In the year 2000, a tragedy occurred in Walkerton, Ontario when the public water system was contaminated with *E. coli*, causing nearly half of the residents of the roughly 5,000-person town fall ill. Seven people died as a result of the contamination, a public inquiry was launched and the manager of the town's public utilities commission was later sentenced to a year in jail for his role in the water system failure. In addition to feelings of shock, sorrow, anger and betrayal, the tragedy brought clean drinking water to the forefront of public consciousness in Canada, along with a widespread

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and resolute commitment to prevent such a catastrophic failure from ever happening again.

First Nations communities in Canada had been dealing with water issues well before the Walkerton crisis, and some continue to grapple with drinking water advisories today. In 1995, shortly after relocating to allow for the growth of their community, the Neskantaga First Nation in northern Ontario was subject to a drinking water advisory after the newly built water treatment plant serving the community broke down. Last year, the community ominously marked 10,000 days under the advisory, which remains in place today.<sup>1</sup>

In 1999, the Kitigan Zibi Anishinabeg in Quebec were placed under a drinking water advisory after unsafe levels of uranium were found in the water drawn from community wells. It took nearly 20 years before the drinking water advisory was lifted in the community, though many homes on the reserve are still without access to clean drinking water.<sup>2</sup> Similarly, the Shoal Lake 40 First Nation community, which straddles the Manitoba-Ontario border, spent nearly 25 years under drinking water advisories before its first community-scale water treatment plant opened in 2021, allowing the advisory to finally be lifted.<sup>3</sup>

Not all affected First Nations communities are so lucky. According to Indigenous Services Canada, 31 long-term drinking water advisories (i.e., those that have been in place for more than one year) currently affect 27 First Nations communities in Canada.<sup>4</sup>

“*Five years after the Walkerton tragedy, the water supply of another small community in Ontario was contaminated with E. coli.*”

Five years after the Walkerton tragedy, the water supply of another small community in Ontario was contaminated with E. coli. This time it was Kashechewan, a small, remote, First Nations community in the province's northeast. The federal government spent \$16 million evacuating the community to protect residents from the health risks of exposure to the contaminated water. The Kashechewan water crisis received some media coverage, but nowhere near

the sustained attention of the Walkerton tragedy. Whereas a public inquiry was launched to sort out what went wrong in Walkerton and ensure it did not happen again, no public inquiry has ever been set up to examine the failures of public drinking water systems in Kashechewan or any other First Nations community, despite years of ongoing drinking water advisories and generations of First Nations relying on bottled water to meet their basic needs.<sup>5</sup>

The Walkerton Inquiry report, released in 2002, included a chapter on First Nations; notwithstanding the fact that the responsibility for drinking water for non-settled First Nations (i.e., those still covered by the Indian Act) belongs to the federal government, whereas the responsibility for drinking water in municipalities in Ontario is delegated by and ultimately within the jurisdiction of the provincial government. The Inquiry report found that First Nations communities in Ontario are not provided the same access to safe, clean drinking water as other municipalities in the province, largely due to inadequate infrastructure, a dearth of trained and certified water system operators, poor testing and inspection, higher levels of water contamination and insufficient water distribution systems.<sup>6</sup> (Conditions are similar in First Nations communities in other provinces.)

“ *The inquiry report also noted a lack of regulated standards when it comes to drinking water on reserves.* ”

The inquiry report also noted a lack of regulated standards when it comes to drinking water on reserves, in contrast with municipalities where standards are enforced by provincial and territorial legislation. The lack of enforceable standards was also identified as a major barrier to ensuring First Nations have access to clean drinking water in a subsequent 2005 report released by Canada’s Commissioner for the Environment and Sustainable Development.<sup>7</sup>

While the public attention and outcry around precarious access to clean water in First Nations communities was muted in comparison to the tragedy in Walkerton – or the 2001 contamination in North Battleford, Saskatchewan, for that matter – the federal government had nonetheless been taking steps to address the issue. From 2001 to 2002, Indian and Northern Affairs Canada (INAC) surveyed water and wastewater systems in First Nations communities

across Canada to establish a baseline of information regarding existing drinking water infrastructure and human resource capacity. The findings would inform plans, programs and investments for the next decade as the federal government began its first serious efforts to address the issue of clean drinking water in First Nations communities.<sup>8</sup>

The baseline assessment covered 740 drinking water systems serving 691 First Nations communities, finding that nearly 30 per cent were high risk (“water systems with potential health and safety concerns”), 46 per cent were medium risk (“water systems requiring some repairs”) and only 25 per cent were low risk (“water systems experiencing minimal problems or without any problems”).<sup>9</sup> The assessment included preliminary cost estimates for addressing water and wastewater system deficiencies at approximately \$500 million along with a further \$500 million for Operations and Maintenance (O&M) costs (i.e., training, monitoring, etc.), \$500 million to provide services to new homes and \$185 million “to address the backlog.”<sup>10</sup>

Based on the data from the baseline assessment, the Government of Canada announced the First Nations Water Management Strategy (FNWMS) in 2003: the first comprehensive plan to tackle drinking water and wastewater systems within First Nations communities. The FNWMS included seven distinct areas of focus that would receive a total of \$1.6 billion in funding between 2003 and 2008: (1) infrastructure upgrades (with a focus on high-risk systems); (2) improved monitoring and reporting; (3) enhanced O&M; (4) increased training; (5) new water quality management protocols; (6) enhanced public awareness; and (7) new standards, policies and protocols reflecting a multi-barrier approach to water management (a comprehensive system designed to protect drinking water from source to tap).<sup>11</sup>

The FNWMS was, in many ways, laudable for its data-based, multi-faceted approach, as well as its substantial investment towards improving drinking water on reserve. A 2009 Health Canada report noted that the strategy led to an improved understanding of the challenges plaguing First Nations communities, improved monitoring and reporting, and allowed for faster and more coordinated responses to emerging water issues.<sup>12</sup> Nevertheless, it was not wholly effective in its intent.

In a 2005 report, Canada’s Commissioner for the Environment and Sustainable Development (an officer of the Office of the Auditor General) noted that those who live in First Nations communities:

do not benefit from the same safeguards on drinking water as most Canadians who live off reserves. The main reasons are a lack of a regulatory regime for drinking water in First Nations communities and fragmented technical support available to First Nations for the design, construction, operation and maintenance of water systems. There are also a number of management and operational issues that contribute to this, such as inconsistent implementation of government guidelines and failure to carry out water testing (p. 5).

The Commissioner added that, “to a significant extent, the success of the First Nations Water Management Strategy depends on [INAC] and Health Canada addressing the management weaknesses we have noted.” (p. 26).

“ *In 2006, the Government of Canada launched the Plan of Action for First Nations Drinking Water (PAFNDW).* ”

In 2006, the Government of Canada launched the Plan of Action for First Nations Drinking Water (PAFNDW). The PAFNDW built on the FNWMS and committed an additional \$60 million between 2006 and 2008 to further its aims and address the findings of the 2005 Commissioner’s report. For instance, it explicitly included a commitment to reporting on progress, along with a promise to assemble an expert panel to advise the government on developing a regulatory framework and legislation governing water quality in First Nations communities.

One of the key findings of the resultant Expert Panel report was that “adequate resources – for plants and piping, training and monitoring and operations and maintenance – are more critical to ensuring safe drinking water than is regulation alone.”<sup>13</sup> Enforceable rules around water provision are important, but without the appropriate facilities and resources (both financial and human) to adequately manage public water systems, rules around how those systems operate are at best moot and, at worst, counterproductive. The panel also noted a problematic gap between the federal government’s cost estimates and the actual amount of funding needed to bring First Nations drinking water systems up to an acceptable standard on account of a variety of factors plaguing

government financial plans, such as using non-technical system assessments as a basis for cost estimates, and failing to account for increased construction costs over time and the impacts of modernized standards with respect to construction, treatment, monitoring, and the like.<sup>14</sup>

The next step forward came in 2008 with the introduction of the First Nations Water and Wastewater Action Plan (FNWWAP). An additional \$330 million was allocated to support the FNWWAP, which reinforced the PAFNDW while adding new objectives, including a commitment to consult with First Nations on new legislation as well as the commissioning of a national engineering assessment of the status of First Nations water systems across the country. This would be the first comprehensive account of existing infrastructure since the 2001-2002 INAC assessment that had informed the 2003 FNWMS, only this time providing more technical information to allow for a more complete and accurate account of needed improvements and cost estimates.

*“The resulting report, released in 2011, provides the most complete recent accounting of First Nations water systems in Canada.”*

The resulting report, released in 2011, provides the most complete recent accounting of First Nations water systems in Canada. It assessed 807 water systems serving 560 First Nations.<sup>15</sup> Of these, 39 per cent were identified as high risk (“systems with major deficiencies... may lead to potential health and safety or environmental concerns”), 34 per cent as medium risk (“systems with deficiencies... pose a medium risk to the quality of water and to human health”) and 27 per cent as low risk (“systems that operate with minor deficiencies... usually meet the water quality parameters that are specified by the appropriate [g]uidelines”).<sup>16</sup> A little over half of the systems had a fully certified primary operator and four out of five had a backup operator; fewer than one in three had a maintenance management plan or an emergency response plan.<sup>17</sup> The report estimated that meeting the new protocols for water systems developed by INAC in 2006 would cost around \$861 million in total.<sup>18</sup> The report also included a list of recommendations to reduce risks to existing systems, meet future servicing needs and improve the quality of future assessments.

In successive reports over the past 25 years, the costs associated with addressing drinking water in First Nations communities have grown along with the recommended steps to ensure water systems are managed safely and efficiently. This is not to say that the federal government has neglected to spend money on the issue. According to the Office of the Auditor General of Canada, “[b]etween 1995 and 2003, the federal government spent about \$1.9 billion to help First Nations communities provide safe drinking water and wastewater services.”<sup>19</sup> A further \$600 million was committed in Budget 2003 to support the FNWMS. Per a letter to the United Nations, between 2006 and 2014 the federal government “invested approximately \$3 billion towards water and wastewater infrastructure and related public health activities to support First Nation communities in managing their water and wastewater systems.”<sup>20</sup> From 2015 to the present, the federal government has spent over \$5.7 billion “to build and repair at least 123 new water and wastewater plants, repair or upgrade 658 others, and support the effective management and maintenance of water systems.”<sup>21</sup>

Successive governments have made progress and, however misguidedly, worked towards what have been identified by various experts as the keys to addressing the issue. Nonetheless, the ongoing efforts, supported by more than \$10 billion in investments, have not coalesced into a cohesive and effective approach to universalizing access to clean water. Today, thousands of First Nations living in Canada are still subject to drinking water advisories – and, in some cases, have been for decades. What are the barriers to solving the issue? What needs to happen to fix water systems in First Nations communities and secure the basic human rights of their members? [MLI](#)

## About the authors



**Matthew Cameron** is a Yukon-based researcher and academic. He is an Instructor at Yukon University, where he has taught in the Liberal Arts, Indigenous Governance and Multimedia and Communications programs since 2016.

In addition to his academic work, Matthew has nearly a decade of experience working in various capacities for the Yukon Government, including as Director of Communications for the Yukon Government Cabinet. Through this work he has been directly involved in various intergovernmental structures in the Yukon, within Canada and at the circumpolar level and has developed an in-depth knowledge of public policy, politics and governance in Canada's North.

Matthew received a PhD in Philosophy from the University of St. Andrews. He holds a Master's degree in Philosophy from the University of Western Ontario and completed his undergraduate studies in Philosophy and Political Science at the University of British Columbia. Matthew works, lives and grew up on the traditional territory of the Kwanlin Dün First Nation and the Ta'an Kwäch'an Council in Whitehorse, Yukon. [MLI](#)



**Ken S. Coates** is a Distinguished Fellow and Director of Indigenous Affairs at the Macdonald-Laurier Institute and a Professor of Indigenous Governance at Yukon University. He was formerly the Canada Research Chair in Regional Innovation in the Johnson-Shoyama Graduate School of Public Policy at the University of

Saskatchewan. He has served at universities across Canada and at the University of Waikato (New Zealand), an institution known internationally for its work on Indigenous affairs.

Ken has also worked as a consultant for Indigenous groups and governments in Canada, New Zealand, and Australia as well as for the United Nations, companies, and think tanks. He has previously published on such topics as Arctic sovereignty, Aboriginal rights in the Maritimes, northern treaty and land claims processes, regional economic development, and government



strategies for working with Indigenous peoples in Canada. His book, *A Global History of Indigenous Peoples: Struggle and Survival*, offered a world history perspective on the issues facing Indigenous communities and governments.

He was co-author of the Donner Prize winner for the best book on public policy in Canada, *Arctic Front: Defending Canada in the Far North*, and was short-listed for the same award for his earlier work, *The Marshall Decision and Aboriginal Rights in the Maritimes*. [MLI](#)

## Endnotes

- 1 <https://www.cbc.ca/news/canada/thunder-bay/neskantaga-water-advisory-anniversary-1.6494213>; Indigenous Services Canada website.
- 2 <https://www.cbc.ca/news/canada/ottawa/indigenous-communities-near-ottawa-still-need-clean-water-election-2021-1.6174175>; Indigenous Services Canada website.
- 3 <https://www.cbc.ca/news/canada/manitoba/shoal-lake-40-first-nation-drinking-water-advisory-1.6176167>
- 4 May 2023 figure from Indigenous Services Canada.
- 5 A public inquiry was also held to determine the cause(s) of the water contamination in North Battleford, Saskatchewan that made around 7000 – roughly half the population – ill in 2001. <https://thestarphoenix.com/news/saskatchewan/revisiting-north-battlefords-water-crisis-20-years-later>
- 6 Report of the Walkerton Inquiry, Part Two, Chapter 15, p. 486.
- 7 “When it comes to the safety of drinking water, residents of First Nations communities do not benefit from a level of protection comparable to that of people who live off reserves. This is partly because there are no laws and regulations governing the provision of drinking water in First Nations communities, unlike other communities. INAC and Health Canada attempt to ensure access to safe drinking water in First Nations communities through their policies, administrative guidelines, and funding arrangements with First Nations. This approach does not cover all the elements that would be found in a regulatory regime for drinking water, and it is not implemented consistently.” (p. 26). It is worth considering how this well documented situation does not fall afoul of s. 15 of the Canadian Charter of Rights and Freedoms, which guarantees “the right to the equal protection and equal benefit of the law without discrimination”.
- 8 Some assessment work had occurred in the 1990s. As noted in the Walkerton Inquiry, “in 1995 Health Canada and the Department of Indian Affairs and Northern Development undertook a survey of drinking water quality on Indian reserves across the country... [finding] one-quarter of the reserves were not up to basic safety standards.” Ibid., p. 488. Going back even further, a federal Cabinet memo from 1977

outlined an infrastructure program aimed “to provide Indian homes and communities with the physical infrastructure that meets commonly accepted health and safety standards, is similar to that available in neighbouring, non-Indian communities or comparable locations, and is operated and maintained according to sound management practices” (REPORT OF THE EXPERT PANEL ON SAFE DRINKING WATER FOR FIRST NATIONS (2006), Vol. 1, p. 22).

- 9 Indian and Northern Affairs Canada (2003), National Assessment of Water and Wastewater Systems in First Nations Communities, Summary Report, p. 10.
- 10 Ibid., p. 24.
- 11 <https://www.rcaanc-cirnac.gc.ca/eng/1100100010387/1621706226705>
- 12 Health Canada (2009), Drinking Water Advisories in First Nations Communities in Canada: A National Overview 1995-2007
- 13 REPORT OF THE EXPERT PANEL ON SAFE DRINKING WATER FOR FIRST NATIONS (2006), Vol. 1, p. 22).
- 14 The cost estimates of INAC’s 2001-2002 National Assessment included the important, if disconcerting, caveat: “This estimate is based on on-site visual inspections of water and wastewater systems and may not reflect the actual cost” (p. 24).
- 15 Indian and Northern Affairs Canada (2011), National Assessment of First Nations Water and Wastewater Systems National Roll-Up Report. The report notes that, “[n]ationally, 571 of 587 First Nations (97%) participated in the study. Four First Nations chose not to participate, while 12 First Nations have no active infrastructure on reserve lands, in some cases as a result of recent or ongoing land claim settlements.” (p. i).
- 16 Ibid., p. 15-16.
- 17 Ibid., p. 24; 26.
- 18 Ibid., p. 28. This total included \$783 million in construction costs and just over \$78 million for various non-construction costs (training, planning, O&M, etc.) An additional \$200-\$500 million is identified as potentially necessary pending results of further analysis of 209 groundwater systems.

- 19 Report of the Commissioner for the Environment and Sustainable Development (2005), p. 26.
- 20 RESPONSE OF CANADA TO THE LETTER OF REQUEST FROM THE UNITED NATIONS INDEPENDENT EXPERT ON THE PROMOTION OF A DEMOCRATIC AND EQUITABLE INTERNATIONAL ORDER AND THE SPECIAL RAPPORTEUR ON THE HUMAN RIGHT TO SAFE DRINKING WATER AND SANITATION (2013).
- 21 Budget 2023.

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