



Webinar Summary
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**Water Security for Canadians:
Making the Federation Work for Water**

Hosted By



POLIS Project on Ecological Governance
watersustainabilityproject

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GLOBAL WATER FUTURES
SOLUTIONS TO WATER THREATS
IN AN ERA OF GLOBAL CHANGE



CWRA ACRH
Canadian Water Resources Association
Association Canadienne des Ressources Hydriques

Introduction

Canada is facing an emerging water crisis. Decades of pollution and development pressures threaten our water quality and quantity, while intensifying climate change has exacerbated and multiplied these challenges. Effective water management in this new reality requires an integrated response. Yet while most of Canada's major river and lake basins are transboundary (in that they cross jurisdictional boundaries between various levels of government, both within Canada and across the U.S. border), most water management decisions are made locally through provincial, local, and Indigenous governments. In this often-fragmented water policy landscape, the federal government has an important role to play in water management and governance across transboundary river basins, including data and knowledge integration, infrastructure support, and planning and coordination.

This webinar¹ explored how the federal government can provide leadership and better exercise its jurisdiction to help prevent Canada's emerging water crisis. The speakers outlined a number of specific,

¹ Approximately 110 people attended the webinar, including attendees from Indigenous, federal, provincial, and local governments, academia, environment NGOs, and private sector professionals.

achievable activities that could position Canada as a global leader in water prediction, management, and sustainability. The presentations built on a concept paper published last year and co-authored by the webinar speakers, among others, entitled [Water Security for Canadians: Solutions for Canada's Water Sustainability and Climate-Related Water Crisis](#)², which makes the case for renewal of the *Canada Water Act* as a vehicle to enhance federal government engagement in water policy and governance.

Guest Speakers

John Pomeroy (Director, Global Water Futures Programme, University of Saskatchewan) explained the science behind Canada's emerging water crisis and outlined how the effects are being felt in different ways across the country. John also described the recent work of Global Water Futures, including a report that situates Canadian water policy in the context of the United Nations Sustainable Development Goals.

Merrell-Ann S. Phare (Executive Director, Centre for Indigenous Environmental Resources) spoke about the need to recognize Indigenous jurisdiction and meaningfully engage in reconciliation to ensure Canada's water security.

Oliver M. Brandes (Co-Director, POLIS Project on Ecological Governance, University of Victoria) discussed key jurisdictional, institutional, and legal considerations around water governance, including pathways for modernizing the *Canada Water Act* and developing key federal water institutions.

Presentations

Presentation I: The Science Behind Canada's Emerging Water Crisis

Presented by John Pomeroy

Canada, like the rest of the world, is in the midst of the "Great Thaw." In Canada, this generally means increased temperatures and increased precipitation, particularly in the north, which is experiencing warming at triple the global average. Snow and ice reserves in the mountains are also severely threatened, which has significant consequences for water resources downstream. On the Canadian prairies, the effects of climate change – shorter winters, less snowfall, and increases in the intensity and duration of rainstorms – has combined with drainage of farmlands to dramatically changed local hydrology. We have also seen increasing flood, drought, and fire, which have been estimated to cost \$28 billion from 2000-2017. In short, management designed for the 20th century isn't going to work for the types of scenarios we are seeing in the mid to late 21st century.

² This report was authored by Global Water Futures, Forum for Leadership on Water (FLOW), POLIS Water Sustainability Project, Centre for Indigenous Environmental Resources, and the United Nations University – Institute for Water, Environment and Health.

[Global Water Futures \(GWF\)](#) – a partnership between the University of Saskatchewan, University of Waterloo, McMaster University, and Laurier University – was formed in response to these challenges. GWF has two main goals:

- a) To place Canada as a global leader in water science for cold regions.
- b) To address the strategic needs of the Canadian economy in adapting to change and managing the risks of uncertain water futures and extreme events.

A [recent GWF report](#) looked at how to achieve the water-related Sustainable Development Goals (SDG) in Canada. This report outlines a number of opportunities towards achieving these goals, including:

- Create a national water agency to provide water information, forecasting and predictions, support integrated river basin management, transboundary agreements and reconciliation.
- Commit to water sustainability as individuals, communities, institutions, and governments.
- Create, support, and share strategic research.
- Find room for co-created Indigenous leadership on water.

Ultimately, meeting water and climate-related sustainable development goals and ensuring the sustainability of our water resources will require transformative solutions co-developed by federal, provincial, and Indigenous government agencies.

Presentation II: Reconciliation and Indigenous Water Rights

Presented by Merrell-Ann S. Phare

If we want to make the federation work for Canadian water security, we need to ask: who is the federation? This of course includes federal, provincial, and territorial governments, but it also must include Indigenous Nations. We have seen movement in this area – Canada has accepted the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), while B.C. [recently introduced legislation](#) to implement UNDRIP – but the challenge now is bringing these ideas into practice. We cannot have a secure water future without addressing the water rights and outstanding entitlements of Indigenous Nations. By forcing Indigenous peoples to litigate these rights, we are delaying the inevitable; this is not the approach to take if we want to get serious about water security in Canada.

Reconciliation is a common obligation of all Canadians, both Indigenous and non-Indigenous. A deep and engaged commitment to reconciliation is needed to reduce and manage water conflict in the future, which requires meaningful changes to our relationships, institutions, and laws. The Centre for Indigenous Environmental Resources (CIER), in partnership with several other organizations, is currently leading a relationship-building approach to reconciliation that focuses on water issues in southern Manitoba through the [Collaborative Leadership Initiative](#). At the federal level, the proposed Canada Water Agency provides an opportunity to change our institutions through the lens of reconciliation, including the possibility of co-creating and co-governing a major federal institution.

The most significant opportunity to achieve water-focused reconciliation is through the *Canada Water Act* (CWA). A renewed CWA needs to focus on integrated water management at the river basin level that recognizes both federal and Indigenous jurisdiction, including enabling the federal government to enter into water co-governance arrangements with Indigenous Nations. This renewal should be undertaken in partnership with Indigenous Nations through a co-drafting process. Co-drafting offers a process that allows Indigenous Nations and the federal government to co-create the content of a piece of legislation together. It does not fundamentally change the technical aspects of the legislative process, but rather involves Indigenous peoples in a more robust capacity and at an earlier stage. The Northwest Territories [Wildlife Act](#) provides a strong example of co-drafted legislation, one of the few examples in Canadian history.

Co-drafting offers a reconciliation-based, consent-honouring approach to avoiding conflict and building collaboration over the long-term. Participation of Indigenous Nations in this process does not mean that they are recognizing the validity of the federal government's laws on their lands. Rather, it is an acknowledgement that the health of the waters flowing through Indigenous lands are inevitably impacted by Canadian laws, and that Indigenous peoples should play a role in defining these laws.

Presentation III: Water Governance Reform

Presented by Oliver M. Brandes

Crafting good water laws is complicated by jurisdictional challenges: water is not mentioned in the Canadian Constitution, and the various water-related responsibilities assumed by different levels of government creates fragmentation. Amidst this fragmentation, the federal government has historically taken a tepid approach to managing water resources. Federal laws and institutions, particularly the *Canada Water Act* (CWA), are insufficient to confront modern challenges, yet these are the laws and institutions largely driving our national agenda.

All levels of government have a critical role to play in water governance. Water flows in streams, aquifers, and rivers that are nested in sub-basins, which in turn are nested within larger lakes and river basins; in a similar way, water and watershed governance must too be a nested system integrated across jurisdictions and institutional arrangements. Nested water governance requires governments to break down silos and overcome jurisdictional squabbles to think about water in an integrated way. Laws and institutions should also be crafted in this integrated way. The federal government could play a much more important and meaningful role in advancing this more integrated approach to water governance; the obvious place to start is a modernized CWA. A modernized CWA would help advance coordination and synchronization in water management amongst governments, but importantly would also help better align legal processes that can effectively address ecological function and processes. Environmental flows – the quantity, timing, and quality of water flows required to sustain freshwater

ecosystems and the human livelihoods that depend on these ecosystems – is an important concept to help align ecology with water law.³

A long-term vision for governance and law reform priorities is laid out in [Water Security for Canadians: Solutions for Canada's Emerging Water Crisis](#). This report outlines the urgent need for a more coordinated approach that more effectively involves the federal government, outlining specific opportunities and priorities for federal contribution to a modernized water management and governance regime. This includes modernization of the CWA and establishment of new federal water institutions. The report proposes two new federal water institutions: the Canada Water Security Centre, a water policy, science and technical centre of excellence, and the National Water Security Commission, an oversight authority with investigative, adjudicative and enforcement powers. We have seen some movement at the federal level: since the report was published, the newly elected minority government has pledged to establish a Canada Water Agency. A new Canada Water Agency is an excellent place for the federal government to start assuming a stronger leadership role.

Questions & Discussion: Key Themes

Canada Water Agency

The panel was asked several questions about the role of the proposed Canada Water Agency. Key discussion points included:

- A new Canada Water Agency should play a central role in coordination and collaboration with other levels of government. As laid out in the *Water Security* report, it could provide both centralized knowledge integration and transboundary oversight.
- Structurally, it is important to bring currently fragmented federal water approaches and resources together by building on existing strengths. One such example is the National Hydrological Service (NHS), which is funded collaboratively by federal and provincial/territorial governments.
- In addition to bringing together internal pieces, a Canada Water Agency should build external partnerships with existing organizations.
- A Canada Water Agency provides an opportunity to co-develop a new approach to water governance with Indigenous Nations, one that recognizes multiple knowledge streams. Even if the Agency is ultimately created and funded by federal institution, Indigenous governments need to be substantively involved. Such an Agency would not supplant the need for Indigenous water institutions.
- The Canada Water Agency should bring diverse data sets – collected by community organizations, municipalities, provinces, territories and industry, etc. – together into an attractive web interface so that it can be accessed by everyone for the common good.

³ For more information, see the Brisbane Declaration and Global Action Agenda on Environmental Flows (2018).

Reconciliation

The panel was asked about advancing reconciliation in complex environments, including those that involve multiple levels of government, nongovernmental actors, and existing conflict. Key discussion points included:

- A relationship-based, holistic approach to reconciliation requires participation from every aspect of society. The private sector, for instance, should play an active role in reforming water licensing processes to recognize Indigenous water rights rather than leaving this work up to governments.
- At the watershed governance level, reconciliation means treating each other as equals, working collaboratively, and sharing resources.
- Global Water Futures takes a reconciliation-based approach to its work by involving Indigenous communities in all stages of project planning. This has resulted in co-led projects that are built on both science and Indigenous knowledge.
- One approach to dealing with conflict is to create collaborative governance tables where each government brings the powers it has to the table and puts aside questions about formal jurisdiction to focus on co-governing and making joint decisions. These tables can be formalized with governance agreements or can be less formal.
- Law and governance cannot always address ignorance or outdated views. Reconciliation requires a broader culture shift, which can happen when government agencies take the need for cross-cultural learning seriously.

The Importance of Legal Reform

The panel was asked why legal reform – via modernization of the *Canada Water Act* – is the best way to achieve changes to the way water is governed and managed. Key discussion points included:

- While the federal government could certainly do more with what they have, legal reform is important to achieve robust and transformative change.
- Law reform is an ongoing priority for society. We need to be more proactive in reforming and modernizing our institutions and legal system. The current approach to water governance – top-down, nuts and bolts – is not sophisticated enough to meet our current challenges.
- Laws provide the authority for governments to do things; we cannot adapt if we do not change laws. Government bureaucracies are very aware of their legislative authority and will not act outside of its scope.
- Law reform provides an opportunity to substantively involve Indigenous Nations in co-drafting legislation. There have been very few laws, perhaps only three, in the entire history of Canada that have been drafted with Indigenous peoples, despite the fact that they are founding nations of this country. To achieve a just society, we need to have more collaborative law building process.

Authority & Jurisdiction

The panel was asked about determining jurisdiction over water resources. Key discussion points included:

- Governing water necessarily involves multiple actors. There is little value in trying to pin down specific responsibility when we are discussing a 'flow resource' such as water.
- Even basins that appear disconnected are often linked through groundwater aquifers and through the atmosphere in terms of how they impact weather systems.
- The focus should be on changing our laws, institutions, and management approaches to align with watersheds, which cut across various jurisdictions.

Resources

[Webinar Video](#)

[Water Security for Canadians: Solutions for Canada's Water Sustainability and Climate-Related Water Crisis](#)

[Water Futures for the World We Want: Opportunities for Research, Practice, and Leadership in Achieving SDG 6](#)

[Collaborative Leadership Initiative](#)

[The Brisbane Declaration and Global Action Agenda on Environmental Flows \(2018\)](#)

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