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

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December 6, 2017
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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response from the Federal government, the SDWFNA continues to be criticized and there have even been calls for it to be repealed.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received from the engagement sessions, the Federal Government will decide on whether the Act should be amended, repealed, or just left as it is.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 SDWFNA 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.