

# Indigenous Water Co-Governance: Emerging Models of Distributed Water Governance in British Columbia and Alberta

Principal Investigator – Dr. Carrie Bourassa, First Nations University of Canada

## Challenge

The emphasis on Indigenous law is of pressing importance given that evolving legal frameworks have created expanded approaches to Indigenous title, rights, and traditional territories and hence expanded roles for Indigenous peoples in resource governance. This creates a challenge for all levels of government (including Indigenous governments), as new models of governance (and stakeholder relationships) are being debated and indeed created.

This challenge has inter-related economic, policy and governance dimensions. Indigenous communities in Canada are currently grappling with a range of water-related issues, including access to safe drinking water, environmental water quality, and associated health and livelihoods issues. In some regions, particularly Western and Northern Canada, these issues are exacerbated by development pressures associated with resource extraction (e.g. oil and gas development, forestry, hydro-electricity). In this context, there are number of challenges that stem from legal and regulatory frameworks, including inadequate consultation, lack of community capacity to participate in engagement and consultation processes, insufficient transparency, and outdated regulations (e.g. with respect to new pollutants) and perceived regulatory capture.

In the absence of effective responses to these challenges, there are a number of potential consequences, including expensive and protracted litigation, higher appeals to (and thus increased caseloads for) regulatory oversight bodies, and political mobilization and protest.

## Project

The project will analyze Indigenous co-governance of fresh water resources, focusing on community engagement with multi-scalar governance processes. Working in partnership with the Indigenous-led NGO Keepers of the Water, the project focuses on three questions: (1) How are co-governance (e.g. legal, regulatory) regimes for Indigenous water rights evolving; (2) what are the advantages, disadvantages, and impacts on decision-making; and (3) how could distributed governance and collaboration, in the context of emerging and evolving legal regimes for Indigenous water rights, enhance sustainable water governance?

Working collaboratively with Indigenous partners the research team will use Community Based Research methods to answer the above noted questions and thus build knowledge about Indigenous communities' interactions with water-use and water governance institutions in western Canada, focusing on First Nations communities in British Columbia and Alberta.

Two contrasting case studies will be conducted in First Nations communities with significantly differing degrees of jurisdiction: Tsilhqot'in Nation (British Columbia); and Treaty 8 (BC/Alberta). The project will examine the regulatory consultation and

engagement processes in British Columbia and Alberta (e.g. the BC Oil and Gas Commission, the Alberta Energy Board, the National Energy Board), community watershed boards and governance mechanisms, and community representation on watershed and government water management bodies.

The project will generate new knowledge regarding the governance framework, specifically, regulatory and legal processes, protocols, and norms, for water-related decision-making in Indigenous communities and the interface between the evolving indigenous and Western legal structures.

## Outputs

Anticipated Outputs include:

- Development of policy briefs, workshops and facilitation of Indigenous water circles to provide opportunities for knowledge mobilization and to support ongoing efforts to reform water governance regulations.
- Indigenous Water Circles Website to summarize information collected in online survey and follow-up interviews.
- In-depth jurisdiction-specific case studies of barriers in existing legal and regulatory processes.
- Rigorous analysis of Indigenous water use practices and ways of knowing.
- Publications in academic journals, as well as a co-edited book.
- Conference presentations to academic and industry audiences to disseminate research findings.

## Outcomes

The project aims to achieve the following outcomes:

- Co-design Indigenous water governance research protocol.
- Systematic analysis of Indigenous communities' engagement with water-related regulatory processes, including identification of barriers to efficient, effective, fair decision-making for long-term sustainable water management.
- Identification of solutions and opportunities through strategic changes to regulatory and legal frameworks.
- Research to support on-going efforts to reform water governance regulations. High-level policy briefs will support ongoing efforts to reform water governance regulations (e.g. BC's Water Act Modernization Process).

## Research Team and Partners:

### Research Team:

Dr. Carrie Bourassa, First Nations University of Canada

Dr. Karen Bakker, University of British Columbia

Dr. Leila Harris, University of British Columbia

Dr. Emma Norman, Northwest Indian College

**Partners:**

Caleb Behn, Keepers of the Water

**Highly Qualified Personnel (HQP):**

TBD