



Water Commission Toolkit

NOVEMBER 2014

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INTRODUCTION TO THE TOOL-KIT

Ontario Indigenous Women's Water Commission (OIWWC)

The Ontario Indigenous Women's Water Commission (OIWWC) strives to reassert and promote the Traditional and inherent roles of Indigenous women as the caretakers of the waters by engaging in Traditional practices, participating in education and planning on water issues, and forming relationships among Indigenous women.

The Ontario Indigenous Women's Water Commission has been developed with input from local Traditional Elders and community-members. The OIWWC is shaped and informed by the views and perspectives of Indigenous women. The OIWWC is open and Inclusive of any community members, agency members, and organizational members who wish to participate in it, and strives to work from a position of collaborative and equal partnership, sharing our strengths and resources.

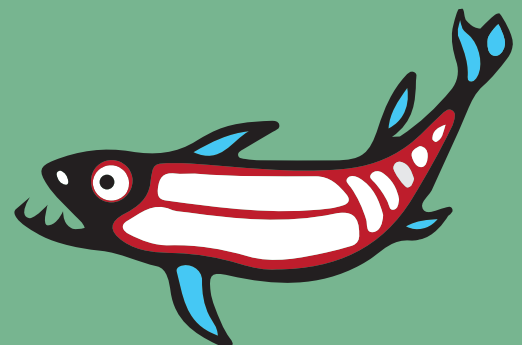
WELCOME

Welcome to the *Water Rights Toolkit*, developed by the Ontario Native Women's Association (ONWA). This Toolkit was designed to empower, support and engage Aboriginal women when dealing with water-rights issues within their communities.

This Toolkit is intended to provide Aboriginal women with the tools they may require to ensure that their issues regarding water rights and water safety are being addressed at the community and governmental levels. This toolkit supports the needs of Aboriginal women to effectively participate in decision-making processes around water, recognizing the unique relationship that Aboriginal women share with the water.

The goals of this Toolkit are to:

- Provide Aboriginal women with information on how to proactively become involved in environmental advocacy;
- Support Aboriginal women in their efforts to assert their Traditional roles as the keepers of the water;
- Unite Aboriginal women to help promote the sustainability of our waters;
- Foster community-awareness regarding the importance of caring for our water and honouring our cultural responsibilities to the water.



Traditional Water Roles

Throughout all of history Indigenous people have cared for the environment and our Mother Earth. Our teachings show us that we are part of the environment and world around us, not separate from it. We must live in balance with Mother Earth and care for the lands and waters. Because we are all related, we are *all* responsible for caring for our Mother Earth.

Just as our ancestors ensured that our lands and waters were cared for, we must ensure that we care for our future generations. To do this, we must learn about Traditional teachings that can guide us in protecting our lands and waters. Together, we can change our relationships to the land and water to make sure that our grandchildren will have safe drinking water, healthy food and a good relationship with all of our relations.

“The Earth is said to be a woman. In this way it is understood that woman preceded man on the Earth. She is called Mother Earth because from her come all living things. Water is her life blood. It flows through her, nourishes her, and purifies her.”¹

As Aboriginal women, we especially, are tasked with caring for water because, like the veins of Mother Earth, because we too create our children in water. Without water provided by Mother Earth and our own mothers, no human would exist. For this reason water is sacred and to must be cared for.

Water is at the very beginning of the world, just like it is at the beginning of our own birth. We are carried in our mothers' wombs, surrounded by water and water always comes out first before a baby is born.

Water is always necessary for human survival, but for Aboriginal communities it holds particular spiritual and cultural significance. Water is not simply necessary for life, it also is *itself* a living spirit; “Without water in our bodies we are dead; not only because of the dehydration that happens in the physical domain, but because of a lack of the spirit energy that signifies life.”² Water is sacred to Aboriginal peoples because it gives life. Water is also cleansing and purifying, and is used in many spiritual ceremonies.

¹ BentonBanai, E. *The Mishomis Book: The Voice of the Ojibway* University of Minnesota Press (2010).

² Anderson, Kim. (2010). “Aboriginal Women, Water and Health: Reflections from Eleven First Nations, Inuit, and Métis Grandmothers.” *Atlantic Centre of Excellence for Women's Health Prairie Women's Health Centre of Excellence*

Aboriginal Traditional Knowledge and Water

Aboriginal Traditional Knowledge includes thousands of years of accumulated scientific observations. Because Aboriginal women have a close relationship with the water, a large body of knowledge about water has been created. As Aboriginal women, we therefore have access to knowledge and information about water through our roles as keepers of the water. Because Aboriginal women are *keepers of the water* it is our obligation to ensure that water is clean, accessible, unpolluted, and continues to fulfill its spiritual roles for our communities, grandchildren, and future generations. As Aboriginal women, we are the inheritors of water knowledge, protection, and management on Turtle Island.

Traditional water knowledge has always been practiced and now provides numerous insights not available to Western scientists. While Aboriginal knowledge has historically been devalued by Western scientists and policy-makers, it has more recently been praised and adopted by Western scientists. Indeed, Traditional Knowledge has been practiced for far longer than has Western science. For this reason, it is important that Aboriginal women learn about our Traditional Knowledge and ecological practices that protect our waters.

As Aboriginal women, we have a sacred connection with the water, we honour the water as it is the source of all life, it is a medicine that cleanses and sustains us through the cycles of life. We must learn to reclaim our roles as the protectors and voice of the waters of Turtle Island. To do this, we must learn our traditional teachings and put those teachings into practice; that may mean learning about water ceremonies and women's roles, advocating for changes to laws protecting our waters, learning how to use less resources, teaching non-Aboriginal peoples that we are all related, or attending a Mother Earth Water Walk.

The reciprocal and unique relationship that we, as Aboriginal people enjoy with the water, continues to be threatened by harmful industrial practices (such as hydrofracking, deforestation, the discharging of pollutants into the air and agricultural activities). As Aboriginal people, our relationship to the water is innate, it is a part of us and our rights are grounded within this innate understanding of the water, these rights are inherent, arising out of our existence as the first peoples.

Empowerment Tools

Some 'tools' that can assist in initiating a conversation regarding the issue of water-rights within a community-setting include:

- Participate, host/facilitate talking circles, community forums, avenues for discussion—aimed at addressing water issues within the community.
- Seek out opportunities to learn about Aboriginal cultural Traditions and history (talk to community Elders—acknowledging their sacred role as the knowledge-keepers).
- Share your knowledge regarding water-teachings with community-members (record narratives so that they are available to share with future generations).

Traditional Male and Female Relationship Models

As women, we have a sacred connection to the water and therefore it is imperative that our voices inform the conversation around water issues. Though colonization displaced women from their Traditional roles as leaders and teachers within our communities, our cultural teachings stress that both men and women have different and unique strengths and skills which are complementary to each other and equally valued.

The Tipi Model

Symbolic of the balance between the roles and relationship of men and women within the Aboriginal community, the tipi has been used as a teaching tool to emphasize how men and women are valued within the Aboriginal community. In reference to the tipi, the man was said to represent the “hide” that cloaks the tipi providing security and sustaining life. The women is said to represent the poles of the tipi, symbolizing the “framework for the shelter offering stability, warmth and structure.”³

Fire and Water

One Traditional model of the Aboriginal male and female relationships which is held sacred to the Ojibway communities in Northern Ontario is the teachings regarding male and female Traditional roles. Teachings inform us that the women’s Traditional role is to take care of the water on Mother Earth, which is symbolic of the water women carry when they are pregnant to nurture the baby in their womb.⁴ The men’s Traditional role within the Aboriginal community was to maintain and care for the fire. These roles demonstrate the equal roles that men and women held within the Traditional Aboriginal tribal community.

Reclaiming Tradition: The Two-Spirited Person

Prior to colonization and contact with European cultures, Indigenous people believed in the existence of three genders: the male, the female and the male-female gender, or what we now refer to as the two-spirited person. While relatively new, the term two-spirited is said to be “derived from interpretations of native languages used to describe people who displayed both characteristics of male and female.”⁵ Indigenous teachings inform us that when a human is born “only one or the other spirit usually comes into substance, into life on earth—the other half remains in the spirit world as a higher self”⁶ the implications of this state of being are that both men and women possess hidden female/male sides. Traditionally, the two-spirited person was the one “who had received a unique gift...the privilege to house both male and female spirits in one body.”⁷ It is said that this gift provides an individual with the unique “ability to see the world from two perspectives at the same time,” individuals with this gift were often “revered as leaders, mediators, teachers, artists, seers and spiritual guides”⁸ within their communities.

³ Languedoc, S. “Aboriginal Family Violence: The Journey Around the Broken Circle” Aboriginal Consulting Services of Alberta (2008).

⁴ Goudreau, G. With support from Wabie, J.L. “Aboriginal Women’s Initiative, Literature Review: A Review of Literature on Intergenerational Trauma, Mental Health, Violence Against Women, Addictions and Homelessness Among Aboriginal Women of the North (NOWSOPE)” YWCA Sudbury & YWCA Canada. Toronto ON & Sudbury ON (2011).

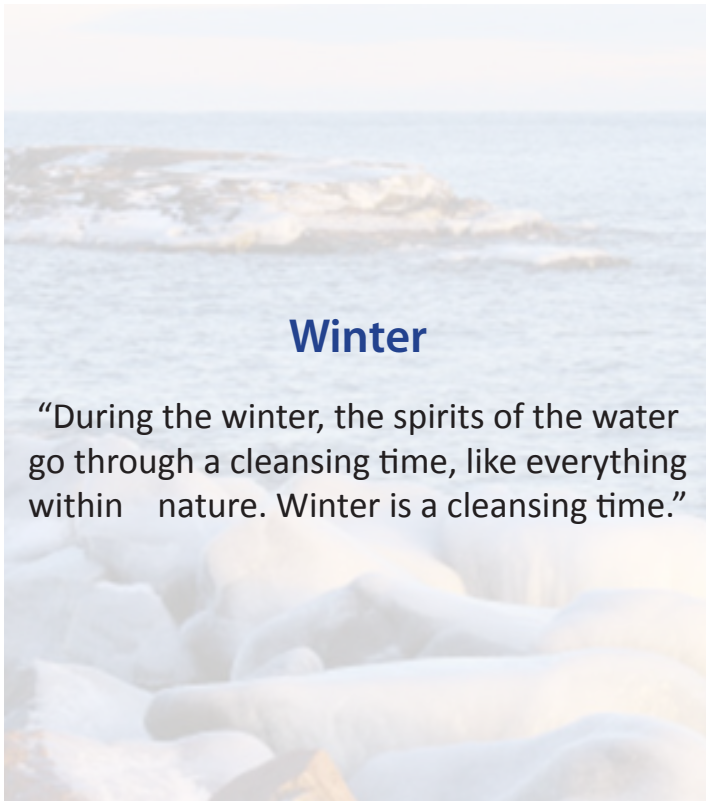
⁵ Newman, B. & Newman, P. *Development Through Life: A Psychosocial Approach* Wadsworth Cengage Learning. (2012)

⁶ *Ibid* P.400.

⁷ *Ibid* P.400.

⁸ *Ibid* P.400

Grandmother Teachings



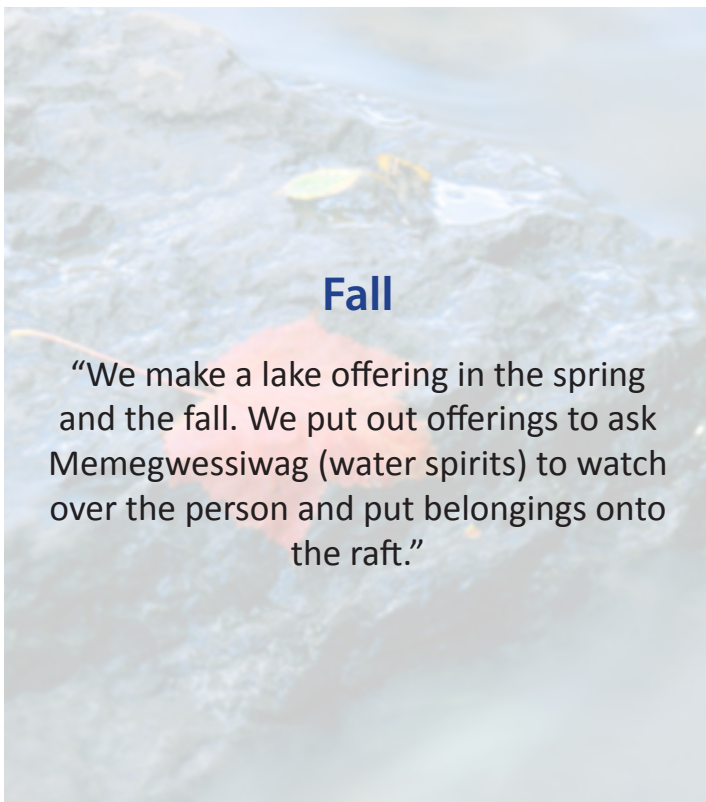
Winter

“During the winter, the spirits of the water go through a cleansing time, like everything within nature. Winter is a cleansing time.”



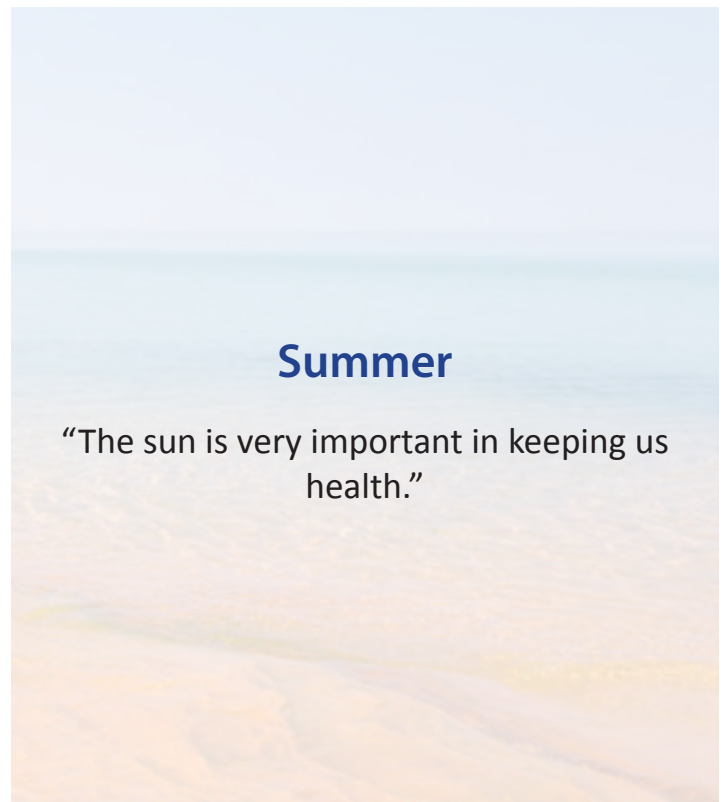
Spring

“Springtime should be a time of rejoicing for people, a time of healing and feeling good about the new life coming from our Mother Earth.”



Fall

“We make a lake offering in the spring and the fall. We put out offerings to ask Memegwessiwig (water spirits) to watch over the person and put belongings onto the raft.”



Summer

“The sun is very important in keeping us health.”

Aboriginal Women, Water and Rights

As Aboriginal women we inherit our roles as water-keepers from our grandmothers and we must carry out that role with our Traditional Knowledge in the contemporary world. Indigenous peoples from all around the world have been organizing and are claiming their own roles as the caretakers of the lands and waters of their traditional territories. More recently, the United Nations has likewise recognized Indigenous peoples' rights to care for our own lands and waters.

There are a number of legal rights that support us as we aim to maintain our traditional roles. The United Nations has declared that clean water and sanitation is a human right which states are obliged to fulfill. More importantly, the United Nations acknowledges the rights of Indigenous peoples throughout the world to manage resources in ways that are economically, culturally, and spiritually appropriate. In Canada, starting with historical treaties that were signed with Aboriginal people as well as the constitutionally-protected Aboriginal rights, federal and provincial legislation provides the framework for Aboriginal women to carry out our roles as water keepers. Thus, cultural, spiritual, and legal support for Aboriginal women to continue acting as keepers and protectors of the water.

As Aboriginal women, we are connected to the water, there is no separation between us and Mother Earth. Though we frame this toolkit and discussion around the concept of 'rights' couched in language that is strictly utilitarian, where water is a resource that can be controlled and 'rights' that have been in existence since time immemorial can be extinguished. As Aboriginal women, we are compelled to operate within the existing judicial framework to ensure that our waters remain accessible to our communities for generations to come, we must utilize our unique and inherent knowledge to engage in advocacy and strengthen our call the most basic all rights: the right to safe and clean drinking water for our communities, families and the generations that will follow them.

As the teachers, leaders, caretakers and guardians, we, as Aboriginal women hold a sacred role within our communities, we must continue to embrace these roles, using our knowledge as a tool in our efforts to advocate for the ongoing protection of the waters. A number of key doctrines and legal decisions have been borne out of discussions around treaty rights as they relate to water, some of these include:

Legal Cases

R. v. Van Der Peet [1996] 2 S.C.R. 507

R. v. Badger [1996] 1 SCR 771

R. v. Sundown [1999] 1 S.C.R. 393

Legislation

Royal Proclamation (1763)

Indian Act

Constitution Act (1867 & 1982)

Indigenous Legislation

COO Water Declaration

Mary River Statement

International Doctrines

Universal Declaration of Human Rights (1948)

International Covenant on Economic, Social and Cultural Rights (1966)

Facts about Water Issues

For thousands of years Mother Earth has provided for us by giving us the foods and sacred medicines that we fish, hunt, gather and grow. However, we have not always cared for Mother Earth in return and now many environmental toxins and pollutants contaminate our water and soil.

Aboriginal Traditional teachings explain that, as humans, we are only one part of the environment and our Mother Earth. Because we are all interconnected and interrelated, we have a responsibility to care for each other and for the environment. This worldview meant that Aboriginal peoples lived in balance with Mother Earth, caring for her as we were cared for.

An Aboriginal worldview is markedly different from the Western worldview that now dominates relationships between humans and the environment on Turtle Island. Whereas, our Aboriginal teachings show us that we always live in interconnected relationships with lands, waters and other living things, Western philosophies believe that humans are entirely separate from nature. Whereas Aboriginal peoples are collective and community oriented, Western worldviews emphasize individualism and independence.

Western worldviews that see humans as separate from Mother Earth have created conditions in which it has become possible to:

- Discharge mining project runoffs into streams and rivers downstream;
- Build garbage dumps next to lakes and rivers;
- Deforest areas around watersheds, making soil erosion a greater risk;
- Emit pollutants that cause acid rain;
- Permit the shipment of toxins across the Great Lakes;
- Consider hydrofracking, a practice which mixes water with sand or chemicals to extract oil deposits;
- Bottle and sell water; and,
- Dismantle existing legislation that offered some protection to water.

For more information see: <http://www.ec.gc.ca/inrenwri/default.asp?lang=En>

Fostering Awareness and Advocacy Tool

Developing a Water Legislation Template (Sample)

The water legislation template serves as a useful tool for identifying relevant legislation that impacts the rights of Aboriginal people to access water.

Indigenous	Provincial	Federal	International	Treaties
COO Water Declaration	Ontario Water Resources Act, 1990	Royal Proclamation 1763	Universal Declaration of Human Rights, 1948	Boundary Waters Treaty, 1909
Garma International Indigenous Water Declaration	Safe Drinking Water Act, 2002	Indian Act	International Covenant on Economic, Social and Cultural Rights, 1966	Convention on Great Lakes Fisheries, 1955
The Convening of Indigenous Peoples for the Healing of Mother Earth, Palenque, Mexico	Waste Diversion Act, 2002	Constitution Act 1867 & 1982	Rio Declaration on Environment and Development, 1992	The Great Lakes Water Quality Agreement, 1972, 1978, 1987, 2012?
NAISMA Policy Statement on Northern Australian Indigenous Water Rights	Clean Water Act, 2006	International Boundary Waters Treaty Act, 1985	Millennium Declaration, 2000	The Great Lakes Charter, 1985
Indigenous Peoples' Kyoto Water Declaration	Toxics Reduction Act, 2009	Navigable Waters Protection Act, 1985	Hyogo Framework 2005-2015	Water Resources Development Act, 1986 (U.S.)
Tlatokan Atlahuak Declaration	Open for Business Act, 2010	Canada Water Act, 1985	Declaration on the Rights of Indigenous People, 2007	Canada-United States Air Quality Agreement, 1991

Water Rights

There are a number of legal doctrines and legislation that supports us as we aim to maintain our Traditional roles. The United Nations has declared that clean water and sanitation is a human right which states are obliged to fulfill. More importantly, the United Nations acknowledges the rights of Indigenous peoples throughout the world to manage resources in ways that are economically, culturally, and spiritually appropriate. In Canada, starting with historical treaties that were signed with Aboriginal people as well as the constitutionally-protected Aboriginal rights, federal and provincial legislation provides the framework for Aboriginal women to carry out our roles as water keepers.

Aboriginal water rights in Canada:

This right to use the land and adjacent waters as the people had traditionally done for its sustenance may be seen as a fundamental Aboriginal right. It is supported by the common law and by the history of this country. It may safely be said to be enshrined in s. 35(1) of the *Constitution Act, 1982*.v [R v. *Van der Peet* [1996] 2 S.C.R. 507 at para. 275]

The right to exercise treaty rights (including hunting and fishing) on crown lands, common law supports the inherent right of Aboriginal people to practice traditional activities on crown land (including provincial parks). [R. v. *Sundown* [1999] 1 S.C.R. 393].

International water rights doctrines:

United Nations Declaration on the Rights of Indigenous Peoples:

Article 25 — Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationships with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

Resolution 62/242. The Human Right to Water and Sanitation:

Recognizes the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights.

Van Der Peet

The Distinctive Culture Test: What is it?

While the Supreme Court of Canada does recognize that Section 35 (1) of the *Constitution Act* (1982) protects inherent treaty and Aboriginal rights (of which water rights are included in this category) Aboriginal claimants are still required to meet what is referred to as the ‘distinctive culture test’: in order “for rights to be held to exist today, they must be shown to have existed, and be central to the distinctive culture of the First Nation at the time of European contact.”¹⁰

“...no treaties indicate that the signatory First Nations released all their governance powers and all their land, water and resource rights”⁹

Though the Supreme Court, in instituting this test, has made it difficult for First Nations to meet the test and prove the existence of Aboriginal rights, there are a number of Traditional water activities that could be utilized to satisfy the test and prove the existence of Aboriginal rights if at the point of European contact your First Nation:

- Utilized water for domestic purposes;
- Used water ways for transportation purposes (to seek out food, for trading purposes, to meet with other First Nations for governance on land or in the waterway);
- Conducted “ceremonies in the water and using the water;”¹¹
- Utilized the water for recreational activities; and
- Had “practices that were dictated by the significance of water to your culture.”¹²

The *Van Der Peet* test has been subject to criticism due to its focus on the past, it requires a First Nation (Aboriginal claimant) to effectively reconstruct their culture from a non-Aboriginal perspective (having to prove validity of past cultural activities to retain inherent rights for future generations). Legal cases such as *Sappier* and *Polchies* have since refined and expanded the upon the *Van Der Peet* test necessitating that the test take into account present-day circumstances of First Nations (as well as pre-contact practices).

References:

R. v. Van der Peet [1996] 2 S.C.R. 507

R. v. Sappier and Polchies; R.v.Gray [2006] 2 SCR 686

⁹ Merrell A.S., Phare B.A., “Aboriginal Water Rights Primer” Phare Law (2009).

¹⁰ *Ibid* P.15.

¹¹ *Ibid* P.15.

¹² *Ibid* P.15.

Asserting your water rights

1. Acknowledge and embrace your cultural responsibilities regarding the lands and waters.
2. Begin with the “assertion that we have retained our rights to water and they have never been extinguished.”¹³
3. Conduct research regarding Aboriginal water rights, historical cultural practices, and community history; Gather narratives from community Elders.
4. Recognize the importance of Traditional Knowledge, advocate for the implementation of formal mechanisms that will advance the effectiveness of measures developed to protect, monitor and conserve water through the integration of Traditional Ecological Knowledge into environment and water management regimes.
5. Continue the ongoing call for the development and implementation of comprehensive watershed management and land use planning strategies created to safeguard water sources and maintain ecosystem integrity.
6. Write letters to your federal member of parliament (MP) or your local provincial/territorial political representative who can help to highlight important water issues and establish a unified voice within your community (see letter writing template).
7. Honour the water through engaging cultural ceremony, participating in water walks, educating our children/youth in regards to the importance of respecting and conserving the water.



¹³ Assembly of First Nation. “Strategy to Protect and Enhance Indigenous Water Rights” (2012).

Letter Writing Template

Your Name

Your Mailing Address

Date

Official's Name, Title

Full Mailing Address

Dear Sir or Madam _____:

Body of your letter should have several parts including the following:

1. Identification of the issue. Describe briefly what issue you are writing about and why it is important to you and/or your community.
2. A request for action and what you would like your official to do. It may also be beneficial to mention any positive environmental actions that have been taken by you or your community regarding the issue.

Thank the official for their time, and request a response to your letter.

Sincerely,

(Your signature)

Your Name

Water Walks

Aboriginal women have important spiritual and community roles that highlight our relationships with water. Women are linked to water physically because we give life; water is our first environment within the womb and, as such, we are inextricably linked to water's spirit. Women and grandmothers act as midwives who bring life into the world. From these roles it is an inevitable extension that both physically, and spiritually, Aboriginal women are the keepers of water.

To continue our roles as Aboriginal women protecting our waters, annual Mother Earth Water Walks have been established by two Anishinaabe grandmothers.

“The first Annual Women’s Water Walk took place April 2003 (around Lake Superior). Several women from different clans came together to raise awareness that our clean and clear water is being polluted by chemicals, vehicle emissions, motor boats, sewage disposal, agricultural pollution, leaking landfill sites, and residential usage is taking a toll on our water quality. Water is precious and sacred...it is one of the basic elements needed for all life to exist. The Annual Women’s Water Walk was chosen for spring because for the natural re-growth of our natural habitat, as it is a time for renewal, re-growth, and re-birth.”¹⁴


These annual Mother Earth Water Walks have been taking place for a decade now across Turtle Island with Aboriginal women and their families walking around and along bodies of water such as the Great Lakes, the St Lawrence River, and the Mississippi River. Throughout these walks grandmothers perform water ceremonies and say prayers for the waters. Participating in a Mother Earth Water Walk is one way of honouring and protecting our waters.

The annual Mother Earth Water Walks are organized by volunteers who are dedicated to caring for and protecting our waters.

“A team of 6 - 8 Aboriginal people volunteer to walk and help with the everyday necessities such as having multitasked drivers to accompany walkers, food preparation, refreshment breaks, camp set ups, cleaners, laundry etc. Public Relations Personnel have been involved throughout by taking shifts, and also going ahead to communities to aid with the awareness of the walk. This includes the distribution of media releases, posters, pamphlets, advertisements, and meeting and greeting of the participating walkers.”¹⁵

¹⁴ Retrieved from: www.motherearthwaterwalk.com

¹⁵ Retrieved from: www.motherearthwaterwalk.com



If you would like more information about the Mother Earth Water Walks please go to their website www.motherearthwaterwalk.com. The Ontario Indigenous Women's Water Commission website will also post information about any upcoming Mother Earth Water Walks.

If you are unable to attend a Mother Earth Water Walk or are interested in honouring water in your own community, the following is a short guide:

1. Learn about our role as Aboriginal women who care for the waters.
2. Practice a reciprocal relationship with Mother Earth and give thanks to the water.
3. Teach our children and youth about the importance of water.
4. Raise public awareness about the need to take care of our water.
5. Adopt a lake or river to clean up, protect, and honour through ceremonies.

By reclaiming our roles as Aboriginal women who protect the waters we can ensure that Mother Earth will be cared for. Passing these roles and knowledge on to our children and grandchildren will mean that future generations will continue to have sustainable relationships with the waters and our Mother Earth.

The Water Song

Brought forth by Mashkoonce Day, Wasaw Wahzhoo Banaise Dodem (Condor Clan)

Performed by Dorene Day, Waubanewquay, Marten Clan

Produced by Stephen Lang

The story of the Nibi (Water) Song told by Beatrice Menase Kwe Jack-son, Migizi Clan.

This song was written by Doreen Day at the request of her grandson. She attended a conference about the water in which the internationally known speaker, Dr. Masaru Emoto said, the very least we should do every day, is to speak to the water:

Water, we love you.

We thank you.

We respect you.

So she did this. Every day on their drive to drop Mashkoonce (Little Elk) to school, they passed a body of water. And every day they said these words to the water as they drove by. They made games by saying it in different voices and then would say it as fast as they could. Then one day Mashkoonce, said, “Nokomis why can’t we say this in our language?” So, Dorene asked her daughter’s language teacher to write it in Ojibwemowin. Dorene had the words taped to the car visor as they learned the words.

One day this grandson Mashkoonce said, “Nokomis why don’t we sing the words, don’t you think the water would like it to be sung?” So she thought about it and came up with the tune. They sang this song to the water every morning on their drive to school.

It is sung like a lullaby and we don’t use shakers or drums.

Doreen and her grandson, Mashkoonce, give permission for everyone to share this song... sing it to the water every day.

Ne-be Gee Zah- gay- e- goo

Gee Me-gwetch -wayn ne- me – goo

Gee Zah Wayn ne- me- goo





www.onwa.ca/water

Contact Information

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