

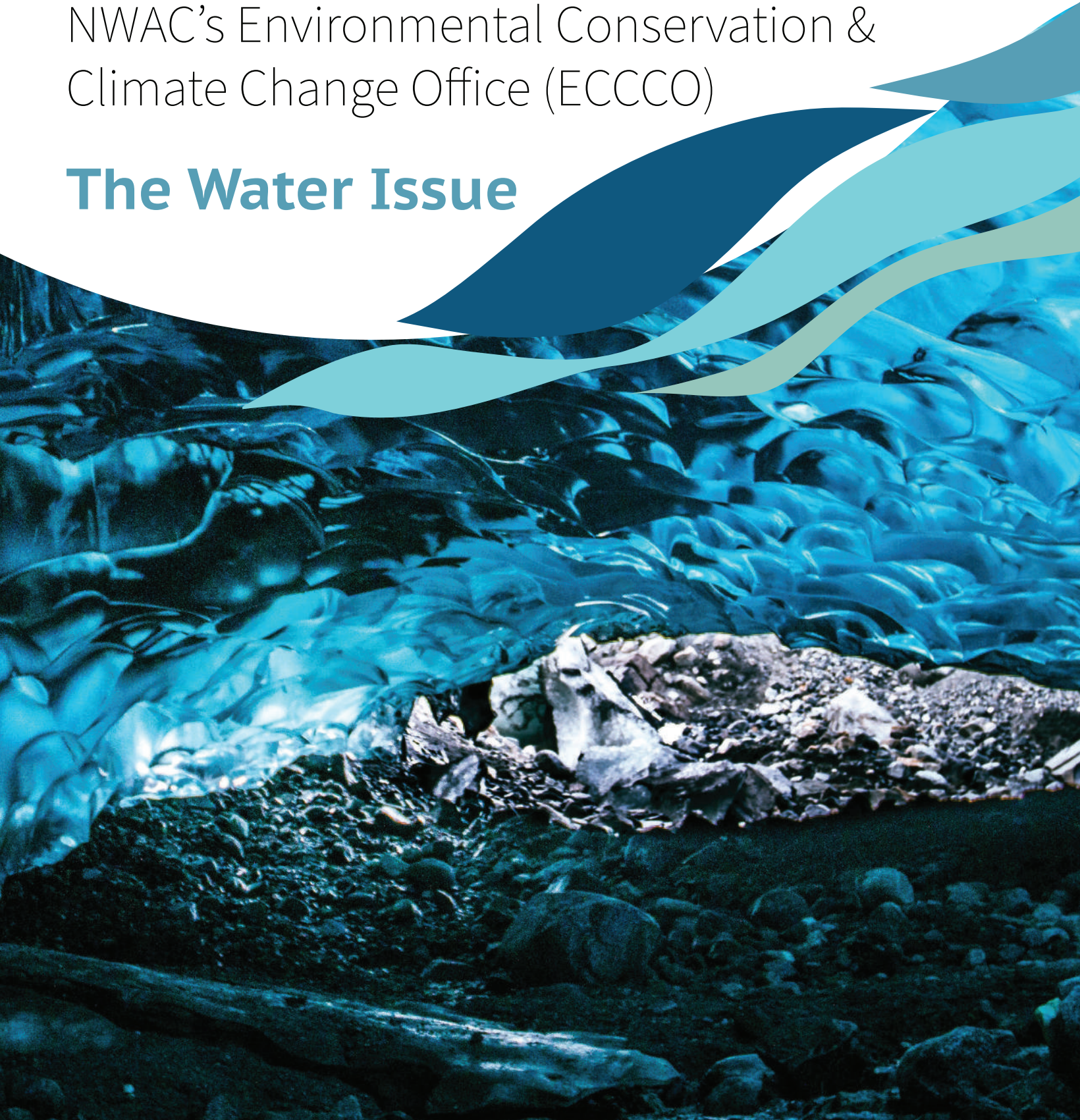
November 2019


E-Newsletter

ISSUE 2


NWAC's Environmental Conservation & Climate Change Office (ECCCO)

The Water Issue





Water protectors understand that water is a living being, not a commodity. We are all born from the sacred waters of our mothers' bodies. Water provides life for all species and shapes the lands we journey across. This issue of NWAC's Environmental Conservation and Climate Change Office e-newsletter looks to water as a teacher and to water protectors for guidance in a world that often sees water as a mere commodity.



“Our Fates Are Bound Up Together” – Protecting Water and Indigenous Culture

By Isabel McMurray



Although the language and the exact sacred teachings are different, the message is the same. Indigenous people across the globe recognize that water is sacred. In Canada, the Assembly of First Nations states that, “The sacred water element teaches us that we can have great strength to transform even the tallest mountain while being soft, pliable, and flexible.” Water is described by Deborah McGregor as the blood of the Earth, which gives all living things life. She explains that water is inextricably tied to our physical survival, as it gives life to the animals that have sustained and nourished the Indigenous peoples of Turtle Island since time immemorial, as well as our spiritual survival, as it gives life and vitality to medicines and is itself a medicine used in ceremony.

As water is the life-giving element, it is tied to women as life-givers.¹ Women carry life-giving water within them, forming a

¹ This is not intended to essentialize giving birth with a single gender. Trans, non-binary, and two-spirit individuals (among others) can also give life, however, conversations about gender identity and expression as they are linked to ceremony are intensely personal and are not reflected in the literature on the sacred nature of water. As such, this article only speaks to the sacred nature of water in the context of the spiritual obligations of people who identify as women.

Colonialism actively worked to disconnect Indigenous people from the land, and thus Indigenous women from their role in water governance

child’s first home before they are even born into the world. The shared responsibility of creating and sustaining life affirms a sacred spiritual obligation for Indigenous women to advocate for and protect water in the face of unrelenting capitalist and colonialist exploitation. This connection is underscored in the report of the National Inquiry into Missing and Murdered Indigenous Women and Girls (MMIWG), where they note that “women are the heart of their Nations and communities” through their actions as defenders of the water, land, plants and animals, and through their role of first teachers and transmitters of culture. Women are responsible for “shaping the actions, beliefs, and values of their people’s culture, including their earliest relationship with water or land.” Further, Indigenous women’s roles and responsibilities regarding foods and medicine in the community keep them closer to water, and to the environmental changes it undergoes.

Despite the crucial role of Indigenous women in water protection and stewardship, their voices are conspicuously absent from conversations on water governance. McGregor points to the devaluation of women’s knowledge by colonial practices, explicitly in the past and implicitly in the present articulation of the colonialist structures. Kate Cave and Shianne McKay note that colonialism

actively worked to disconnect Indigenous people from the land, and thus Indigenous women from their role in water governance. This divide was exacerbated by the disproportional inequities faced by Indigenous women, and was complicated by a myriad of social, financial and political factors.

Despite the systematic exclusion of Indigenous women from decisions about water, women across Canada are raising their voices and fulfilling their sacred responsibilities despite the lack of policy and government structures. Indigenous women aren't waiting for permission to intervene as water protectors. It's time that government policies catch up and welcome these women into the decision-making processes that they have long been excluded from. As Deborah McGregor notes, the fight for water is a spiritual journey. In reclaiming their space as water protectors, Indigenous women fight to reclaim their cultural space as knowledge holders, first teachers and transmitters of cultural knowledge. In so doing, Indigenous women are leading the way in the revitalization of their way of life.

Indigenous Women Take Action

- The Akii Kwe are a collective of women and girls in Bkejwanong Territory who came together in the 1990s to fight chemical dumping into the waters on their traditional territory. (Akii Kwe. "Minobimaatisiwin — We Are to Care for Her." Position Paper from Women of Bkejwanong First Nation. Walpole Island, ON, 1998.)

- Mi'kmaq Grandmothers were arrested protesting industrial development by Alton Gas in Nova Scotia. (<https://stopaltongas.wordpress.com/>)

- Anishnaabe grandmothers organized the first Great Lakes Mother Earth Spirit Walk was organized in 2003, where they walked around 1300 kilometres around Lake Superior to raise awareness of water as a sacred entity rather than as a resource. Since then, many other water walks have been organized across Canada. (<http://www.motherearthwaterwalk.com>)

- The Yinka Dene Alliance is composed of six First Nations who came together as a result of Indigenous women rallying their

communities in an effort to stop a resource development in their traditional territories. (https://en.wikipedia.org/wiki/Yinka_Dene_Alliance)

- The Ontario Indigenous Women's Water Commission put together a water rights toolkit. (<http://www.onwa.ca/upload/documents/water-commission-toolkit-final.pdf>)

- The Centre for Indigenous Environmental Resources helped teach Indigenous youth from Canada's four main watersheds about water issues faced by many Indigenous communities on Turtle Island.

- Several female Indigenous youth from Iskatwizaagegan #39 who participated in the Centre for Indigenous Environmental Resources "Youth Water Leaders" project formed Ferda Water, a youth environmental organization. (<http://ifculture.ca/ferda-water/>)

Sources

Deborah McGregor, "Anishnabe Kwe, Traditional Knowledge and Water Protection," Special Edition – The Voices of First Nations, Inuit, and Métis Women: Canadian Women's Studies 26, no. 3-4 (2008): 26-30.

"Honouring Water." Environmental Stewardship Unit, The Assembly of First Nations, accessed November 10, 2019, <https://www.afn.ca/honoring-water/>

Kate Cave and Shianne McKay, "Water Song: Indigenous Women and Water," The Solutions Journal 7, no. 6 (November 2016): 64-73, accessed November 10, 2019, <https://www.thesolutionsjournal.com/article/water-song-indigenous-women-water/>

"Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls." The National Inquiry into Missing and Murdered Indigenous Women and Girls, Government of Canada, accessed November 10, 2019, <https://www.mmiwg-ffada.ca/final-report/>

Indigenous Trust Doctrine: How the Honour of the Crown Creates a Duty for Meaningful Action on Climate Change

By Adam Bond

The public trust doctrine has recently advanced in climate change litigation, as it argues that the state has a duty to equally hold and protect public resources as well as atmospheric resources. In Canada, the public trust doctrine interacts with Indigenous rights to present some interesting legal avenues that compel more meaningful government actions on climate change. Historically, the public trust doctrine applies to lands under tidewater. It protects both the public's paramount right to use these resources for transportation, commerce and trade, and upholds the state's duty to protect these rights. In 1982, the United States Supreme Court noted:

“The state can no more abdicate its trust over property in which the whole people are interested ... than it can abdicate its police powers in the administration of government and the preservation of the peace ... Trusts connected with public property, or property of a special character, like lands under navigable waters; they cannot be placed entirely beyond the control of the state” (Illinois Central R Co, at pg 146 US 453-454).

On October 25, 2019, 15 youths filed a statement of claim against Canada seeking, among other things, an order stating the government's failure to take sufficient action on climate change, for which constitutes a breach of public trust ([La Rose et al v Canada \(Attorney General\), Federal Court of Canada, File No. 1750-19, Statement of Claim, at 222\(d\)](#))

“In the unique context of Canadian Indigenous law, the potential application of the public trust doctrine presents opportunities under section 35 of the Constitution Act, 1982.”

The La Rose case includes arguments stating the harm in which climate change has inflicted upon Indigenous peoples and Indigenous children and youth is particularly vulnerable, and ultimately affects their rights under the Charter of Rights and Freedoms.

In the unique context of Canadian Indigenous law, the potential application of the public trust doctrine presents opportunities under section 35 of the Constitution Act, 1982. Section 35 guarantees the protection of Aboriginal and treaty rights, which deal heavily with the rights of Indigenous peoples to access resources and lands. Canada has a responsibility to limit global warming to 1.5 °C (as committed to under the Paris Agreement), which is necessary to prevent catastrophic climate consequences that will impact Indigenous peoples' section 35 rights to access traditional lands and resources.

In addition to section 35, the honour of the Crown is a principle that requires the Crown to act honourably in all its dealings with Aboriginal peoples. Canada has legal undertakings and commitments at the international level to reduce greenhouse gas emissions to mitigate climate change. Those commitments are as deeply important to Indigenous peoples, as it affects their traditional resources and lands, as well as their section 35 rights in relation to such resources.

Canadian courts have not addressed how—or even if—the public trust doctrine might apply in Canadian common law. However, a doctrine declaring that the state may not abdicate its duty to protect the natural resources of the public presents interesting opportunities in the context of climate change, section 35 and the Honour of the Crown.



Five Ways to be a Water Protector

By Sarah Niman

Water protectors are guardians distinct from other environmental advocates because they fulfill sacred duties. No matter your culture, you can act as a water protector once you learn the ways water moves among us.

Here are five ways you can protect water in your own life, starting today:

1 Dispose of chemicals properly: Just because it is out of sight does not mean there is no harm. Pouring leftover motor oil, household cleaners and other chemicals into your sink or onto the ground allows for toxins to seep into groundwater and riverways. While you're at it, switch to household cleaners that don't pollute aquatic life. Avoid phosphates, microplastics, triclosans and antibacterial soaps.

2 Waste less water at home: While a long, hot shower after a rough day may feel luxurious, water is a finite resource worth conserving. Reduce your shower by a few minutes to save gallons of water a month. Turn off the faucet when brushing your teeth and in the shower when scrubbing.

In the kitchen, use dish water sparingly to rinse produce and run the dishwasher only when full. Fix leaky faucets as soon as you spot them.

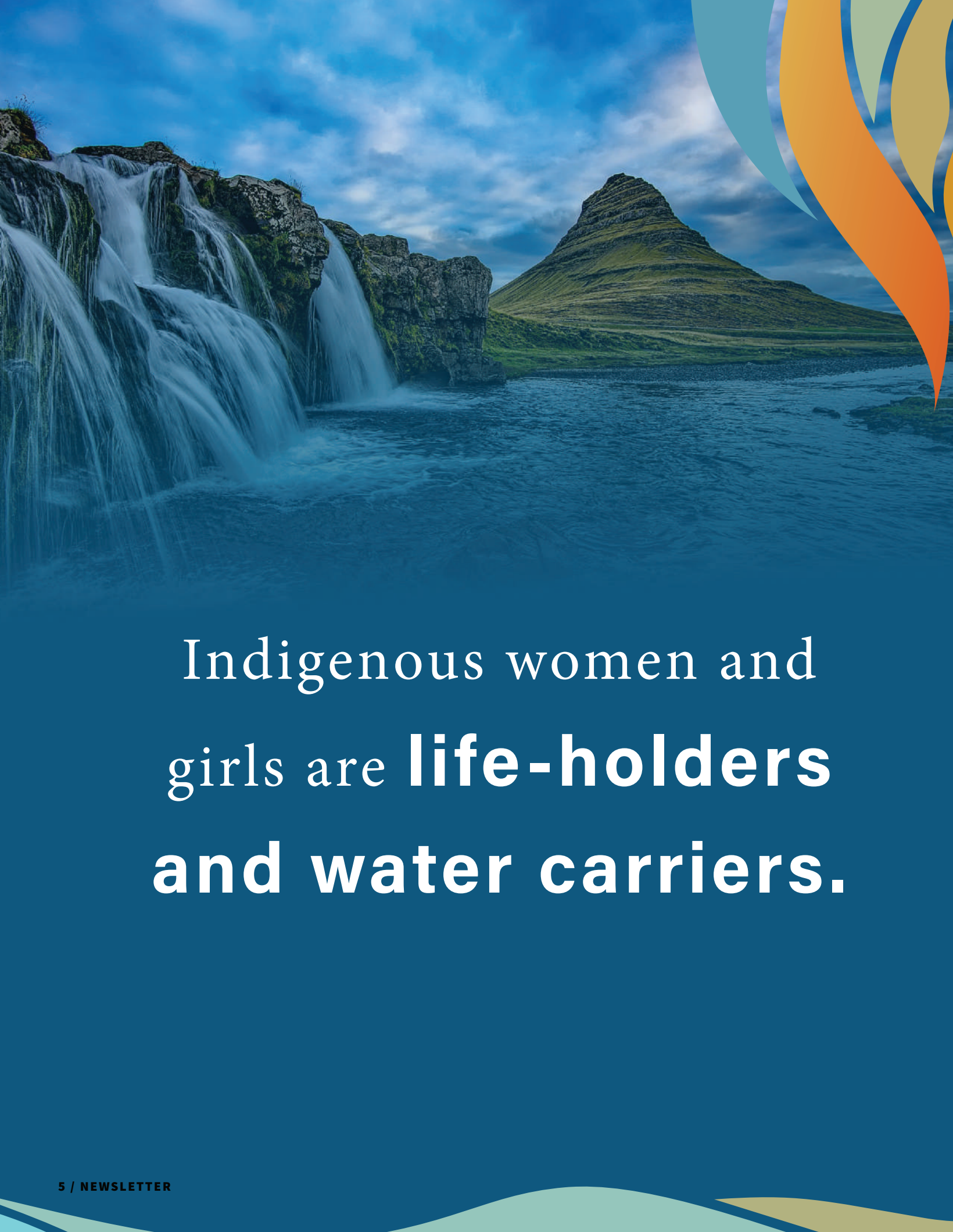
3 Garden with water in mind: Avoid pesticides and chemical fertilizers by opting for natural sources instead. Collect rainwater in barrels and water plants in the early morning or evening, when soil absorbs more. Garden native plants that are accustomed to local water conditions, and mulch gardens with hedge trimmings and leaves to retain soil moisture.

4 Pick up Litter: Garbage on the ground is not magically removed. Rain carries it into storm drains and water ways. If you see it, pick it up and throw it out safely.

Pet waste bacteria is especially harmful to waterways. Bag it and dump it in trash bins or compost bins, where accepted.

5 Walk the Walk: Model water protection attitudes, behaviours and teachings, and others will follow suit. Making water protection a shared effort at work, in your family and community strengthens your impact. Learn about your area's watershed: Where does it connect to other bodies of water? What life does it support? When we know better, we are called to do better. and community strengthens your impact. Learn about your area's watershed: Where does it connect to other bodies of water? What life does it support? When we know better, we are called to do better.





Indigenous women and
girls are **life-holders**
and water carriers.

Giving Water a Voice in Canada's Legal System

By Sarah Niman

There is a growing movement around the world and across Canada to recognize a human right to a healthy environment. Some states have gone even further through adopting an eco-centric approach and giving rights to nature itself. This approach can provide stronger protection from harm. For example, the 2008 Constitution of the Republic of Ecuador recognizes the rights of nature including the right to existence, life cycles, structure, functions and evolutionary processes. Here are five ways you can protect water in your own life, starting today:

“I am the River, and the River is me”¹

In 2017, The Whanganui River in Aotearoa (New Zealand) was the first river in the world to receive legal status as a living entity, giving the river the same rights and responsibilities as human beings. This was the result of 200 years of the Whanganui Iwi's struggle to regain governance of the river. The river now has two guardians appointed to act on its behalf; one from the Whanganui Iwi and one from the Crown.

“Water is life itself”

Like in Aotearoa, the concept of recognizing rivers and natural features as living entities is not new for several Indigenous Nations across Canada. For example, Anishinaabe water law principles include that “water is life itself,” water has a spirit, women are responsible for water and water needs a voice.²

Although there are no natural features with legal standing in Canada yet, the concept of granting non-humans legal rights is not foreign to Canada's legal system. For instance, corporations are recognized as legal persons with rights and responsibilities.

Article 25 of the United Nations Declaration on the Rights of Indigenous Peoples recognizes the right to relationships with nature:

“Indigenous peoples have the right to maintain and strengthen their spiritual relationship 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.”

This relationship would imply that the lands, territories, waters and coastal seas have personality. Giving water legal personality in Canada could support reconciliation through increasing protection of important water bodies and recognizing Indigenous Nations' right to participate in water governance. It could give back authority to Indigenous Nations—particularly Indigenous women—to be the voice of the water.

¹ How the Whanganui Iwi define their relationship to the river

² “Anishinaabe Nibi Inaakonigewin Report” - conference report by Professor Aimée Craft: http://create-h2o.ca/pages/annual_conference/presentations/2014/ANI_Gathering_Report_-_June24.pdf

Water
is
Life
Itself

Resources on Water Teachings

Water Song: Indigenous Women and Water

Kate Cave, Shianne McKay, Water Song: Indigenous Women and Water, The Solutions Journal, Volume 7, Issue 6, November 2016, Pages 64-73

<https://www.thesolutionsjournal.com/article/water-song-indigenous-women-water/>

The Women Who Walk for the Water: Grandmother Josephine Mandamin's Legacy

The Ecologos Environmental Organization, Water Docs, March 8, 2019

<https://www.waterdocs.ca/news/2019/3/8/the-women-who-walk-for-the-water-grandmother-josephines-legacy>

Aboriginal Women, Water and Health: Reflections from Eleven First Nations, Inuit, and Metis Grandmothers

Kim Anderson, Atlantic Centre of Excellence for Women's Health Prairie Women's Health Centre of Excellence, October 2010

https://cdn.dal.ca/content/dam/dalhousie/pdf/diff/ace-women-health/ACEWH_aboriginal_women_water_and_health.pdf

Indigenous Art and Activism – Carleton University Art Gallery Launches Winter Exhibitions

Dan Rubinstein, Carleton Newsroom, January 24, 2019

<https://newsroom.carleton.ca/story/indigenous-art-activism/>

2019 Climate Change Report

Quebec Native Women Inc., March 31, 2019 (ONE OF OUR PTMAs)



Native Women's
Association of Canada



L'Association des
femmes autochtones
du Canada

WWW.NWAC.CA