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Chair: Mr. Patrick Weiler



Standing Committee on Indigenous and Northern Affairs

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• (0825)

[English]

The Chair (Mr. Patrick Weiler (West Vancouver—Sunshine Coast—Sea to Sky Country, Lib.)): I want to call this meeting to order.

Welcome to meeting number 118 of the House of Commons Standing Committee on Indigenous and Northern Affairs.

I want to start by acknowledging that we are gathered on the ancestral and unceded territories of the Algonquin and Anishinabe peoples, and to express gratitude that we're able to do the important work of this committee on lands that they've stewarded since time immemorial.

Pursuant to the order of reference of Wednesday, June 5, 2024, the committee is resuming consideration of Bill C-61, an act respecting water, source water, drinking water, waste water and related infrastructure on first nations lands.

Before we begin, I want to ask all in-person participants to read the guidelines written on the updated cards on the table. These measures are in place to help prevent audio feedback incidents and protect the health and safety of all participants, including the interpreters.

Today's meeting is taking place in a hybrid format. All witnesses have completed the required connection tests in advance of the meeting.

I want to remind all participants of the following points. Please wait until I recognize you by name before speaking, and all comments should be addressed through the chair. Members, please raise your hand if you wish to speak, whether participating in person or via Zoom. The clerk and I will manage the speaking list as best we can.

With that, I'd like to welcome our witnesses for our first panel.

From the Ermineskin Cree Nation, we have Chief Joel Mykat, Councillor Craig Mackinaw, Dr. Wilton Littlechild and Counsel Clayton Leonard. From the Kativik School Board, we have Harriet Keleutak joining us by video conference.

Before we begin, I understand that the witnesses from Ermineskin Cree Nation have asked for 10 minutes for introductory opening remarks. The standing orders of this committee and the typical practice is five minutes. In order to have 10 minutes, we will need the unanimous consent of members in this committee. I want to en-

sure we have unanimous consent to do that before we move forward.

Some hon. members: Agreed.

The Chair: With that, I will turn it over to the Ermineskin Cree Nation to deliver 10 minutes of opening remarks.

Chief Joel Mykat (Ermineskin Cree Nation): [*Witness spoke in Cree*]

[English]

I'd like to thank the committee for inviting us to speak today about Bill C-61.

Honestly, it's very disappointing and frustrating to have to be here today. As you know, the Ermineskin Cree Nation wants an amendment to the bill to recognize first nations' right to safe drinking water. This means that all first nations people who live on reserve lands have a right to drinking water with no serious risks to human health and well-being. Nothing less will honour and uphold our treaty with Canada and respect our human rights.

This is not just a legal issue. It matters every day in the lives of real people at Ermineskin. Canada has repeatedly promised to fix first nations drinking water issues since the 1970s and has failed over and over. Canada's best efforts promised in the bill are not good enough. Our people have experienced Canada's neglect of our drinking water in their homes and daily lives for decades.

I would like Councillor Mackinaw, who has also worked on this issue for a long time, to give the committee a sense of the unsafe drinking water crisis at Ermineskin. I will then provide a short closing statement.

Sir.

Grand Chief Craig Makinaw (Councillor, Ermineskin Cree Nation): Good morning. I'd like to make some comments this morning.

In 2010, Canada conducted the national assessment of first nations water and waste-water systems. At Ermineskin, the assessment found that our water treatment plant, built in the 1970s, failed to meet drinking water standards and badly needed to be replaced. The plant is still operating.

About 70% of our families are not connected to the treatment plant. They get water from about 500 rural wells. The assessment found that every single tested well failed to meet the health requirements of drinking water standards. Fecal coliforms and E. coli were common. Canada was informed that an investment of about \$80 million was needed at Ermineskin so our people could access safe drinking water. To this date, Canada has failed to implement any of the key recommendations of the assessment, with awful consequences.

From 2010 to 2022, there have been 361 drinking water advisories on about 500 wells, or 73% of our homes. Even worse, 232 of those drinking water advisories were longer than a year and almost 80 are effectively permanent. Three families even live with “do not consume” orders on their wells. These records have been provided to the committee.

Ermineskin, for our part, has invested lots of time, energy and resources trying to find a solution. When Canada failed to act on the 2010 assessment, Ermineskin started one of the first legal actions on safe drinking water in 2014. We willingly put the litigation in abeyance to work with Canada to find solutions. Canada first tried to push the cheapest short-term solution possible. After four years, Canada finally agreed to apply the Canadian drinking water guidelines and study what is actually needed to ensure safe drinking water for our people.

The negotiations ended earlier this year because Canada said the 361 drinking water advisories didn't matter because they are on wells and not on our water plant. Canada refuses to fund the solution recommended by qualified engineers that is needed to get safe drinking water to all of the families at Ermineskin, which is centrally treated water piped to all of our homes. Ten years of negotiations ended in February when Canada effectively said, “too bad”.

Despite the frustration and the complete lack of action by Canada on our drinking water systems, Ermineskin invested heavily in engagement on Bill C-61. We were hopeful when Canada told us at the first meeting, in September 2022, that it wanted to develop new legislation to finally address unsafe drinking water at Ermineskin and all first nations. Canada told us, according to its own document, “We are committed to...affirm and recognize the rights of First Nations”. Specifically, Canada said it intended to address the “non-recognition of First Nations water rights” in former legislation. Finally, we thought Canada was ready to do what's needed and to do what's right: to recognize that first nations have a right to safe drinking water. After all, the bill is about safe drinking water.

● (0830)

Ermineskin worked with Dr. Littlechild, a leading expert on the UN declaration, and with Professor David Percy, former dean of law at the University of Alberta, Canada's leading water law expert and adviser to the Waitangi Tribunal on Maori water rights, so that we could provide Canada with the best possible input. We held five all-day council sessions on the bill, met many times with Canada and provided six written submissions on the bill.

Although we are pleased that it recognizes that our water is part of our reserve land and that we have a broader right of self-government over our water, Canada has failed on the most important issue.

A law meant to ensure that first nations have access to safe drinking water must recognize our right to safe drinking water.

Many first nations, including Ermineskin, have suffered too long from Canada's “best efforts”. It is absolutely critical that Bill C-61 recognize that first nations have a right to safe drinking water.

Chief Mykat will provide final comments.

Chief Joel Mykat: I need to be clear and firm on this issue. Canada has violated the treaty and the human rights of our families, children and elders by failing to act on the unsafe drinking water crisis at Ermineskin. Our long and patient effort to work with Canada on solutions, including this bill, has only resulted in more inaction, failure and half measures.

The Ermineskin Cree Nation has had enough. We will carry through our litigation against Canada until first nations' right to safe drinking water is the law and every person at Ermineskin can turn on the tap in their home, office or school and not worry about whether the water threatens their health and well-being.

Amending Bill C-61 to recognize first nations' right to safe drinking water is a requirement that is long overdue. This would also be a positive step toward resolving Ermineskin's case against Canada and maybe similar lawsuits like those of Shamattawa and Six Nations. Real reconciliation starts with ending Canada's violation of our treaty and every first nation's right to safe drinking water.

I'm not sure if I am allowed to ask committee members questions, but I will anyway. Ermineskin and probably all first nations want to hear from each of you if you support our right to safe drinking water.

● (0835)

The Chair: Thank you very much for those opening remarks.

Next on the first panel, we have Ms. Harriet Keleutak, who is joining us by video conference.

You have five minutes for introductory remarks.

Ms. Harriet Keleutak (Director General, Kativik School Board): Thank you. Good morning, everyone.

This is my first time being on this kind of panel, so I'll try to be quick and precise. I am from Nunavik, northern Quebec. I work for a school board, but I've been fighting for the rights of Inuit children and youth to have access to essential services such as water and waste water.

In our region, since we are under the Quebec government, many mornings and many days our students go without water in their homes because some communities do not have enough trucks to bring water or to collect waste water. It has become critical at some point since the pandemic because the Quebec government is neglecting Inuit in Nunavik.

We give a lot to.... We have given up our land. We have given up our water. Hydro-Québec makes money—it's a billion-dollar business—and provides from our land to the States, to Ontario and to other places. However, we, who are within the region, are not connected to the hydro facilities. Therefore, we depend on diesel to make sure our communities are functioning and have electricity.

Since the pandemic, we have seen that essential services have become more scarce or sometimes non-existent. Last winter, we had to close our schools because of no water, or no sewage available to pick up the waste water.

It affects the learning of children and youth. It also affects their health, their cleanliness and their drinking water as well. I don't know how Inuit can be neglected for so long. When children wake up in the morning, their parents have to go to work, and they have to go to school without having water in their homes. There are no flushing toilets, and there is no drinking water—nothing.

It has to be taken seriously because we have been neglected for far too long. The people who govern us or who are in administrations never have to live what we live. For them, it's so hard to understand how people in this day and age can live without drinking water or without access to a water or sewage system. This is something we would like to see investments in because it affects our whole community.

When there are blizzard days, it's normal to go without water, so we try to preserve our water and not use too much water to do laundry or other cleaning things in the house, but we should be able to live like the rest of.... I'll use Quebec as an example. Inuit of Nunavik should be able to live like the people of Montreal, having access to water all the time.

The governments have made it in such a way that, in the land claims agreements, we beg for it, when it's an essential service and a right. We need infrastructure to make sure we have water, drinking water, clean water 24-7, 365 days a year, for the children, the elders and everyone else in the community. We need to make sure that our communities are functioning properly and that we have access to healthy water and proper infrastructure so that our people are served properly.

● (0840)

Thank you.

The Chair: Thank you very much to the witness for her opening remarks.

With that, we're going to start our first round of questioning.

I apologize. I forgot to mention earlier that all questions for the Ermineskin Cree Nation will be directed through their counsel, Mr. Leonard.

With that, I will turn it over to Mr. Shields.

You have six minutes for questioning.

Mr. Martin Shields (Bow River, CPC): Thank you, Mr. Chair.

Thank you to our witnesses for being here today. I very much appreciate it.

One of the first things you talked about was a long history. Can you describe the consultation process for the development of Bill C-61? Can you go through what the consultation was with you?

Mr. Clayton Leonard (Lawyer, Ermineskin Cree Nation): I believe that, like every first nation in the country, Ermineskin was contacted in 2022 and offered an initial meeting. At that meeting, it was presented to Ermineskin representatives that Canada wanted to introduce new legislation on this issue that would be driven by article 19 of UNDRIP, which requires consent. It was also presented that the bill would not only address the clean drinking water issue, but be driven by an intention to recognize first nations' water rights.

There were probably about four meetings with Canada. As Councillor Makinaw described, there was also a lot of internal work at Ermineskin between those meetings. It was quite an intensive process over two years.

Mr. Martin Shields: Is that the consultation you believe you should have had?

Mr. Clayton Leonard: Not to brush your question aside, but I'm not so interested in talking about consultation. I think the minister promised in the House when this bill was introduced that she would listen to first nation voices, and that would drive amendments.

A number of first nations that I work with, as you know, and probably others in the country, have asked, "In a bill about first nations safe drinking water, where's the right to safe drinking water?"

To my knowledge, no one has received a response from the minister's office.

Mr. Martin Shields: The reason I ask that question is that we have heard they felt the duty to consult hadn't occurred. That's why I asked that. It's because we've heard it from other witnesses we've had here.

I think that's a critical thing. If other groups are saying they don't believe they had the consultation process that they sought.... You're saying that that's irrelevant.

Mr. Clayton Leonard: I'm saying that Ermineskin's experience was that there was an opportunity for in-depth consultation. The issue is Canada's lack of response to the changes and issues brought up in that consultation.

Mr. Martin Shields: That would suggest there has not been that consultation. That's just listening, but not acting.

● (0845)

Mr. Clayton Leonard: There were some good last-minute changes made to the draft of the bill before it was introduced. The bill states that water in, on, and under reserve lands is first nations' water. The recognition of the right of self-government over that water is broad.

It's a bill about clean drinking water, so those things are nice and great, but where's the right to safe drinking water?

Mr. Martin Shields: Right.

You've reactivated the lawsuit. What's the basis of that reactivation?

Mr. Clayton Leonard: As you can see in the drinking water advisory records that have been provided to the committee, and as Councillor Makinaw has pointed out, Ermineskin has lived over the decades with the repeated experience of various governments saying, "We're going to fix this."

Now, yet again, Canada is promising best efforts in the bill. The reality is that 73% of homes in Ermineskin today are under drinking water advisories.

Mr. Martin Shields: What is the intent of the lawsuit?

Mr. Clayton Leonard: It's to make sure that everyone at Ermineskin can turn on the tap and not have to worry about their drinking water anymore, and to get confirmation in a court of law that first nations have a right to safe drinking water.

I think if that went in the bill, it would help move the lawsuit toward a resolution.

Mr. Martin Shields: That's the next question. If it's in the legislation, does the lawsuit stop? Would you drop the lawsuit if that amendment was there?

Mr. Clayton Leonard: If Canada is actually willing to implement the right to safe drinking water...

Mr. Martin Shields: Then what's the difference between it being in the legislation and what you just said?

Mr. Clayton Leonard: What I just said?

Mr. Martin Shields: Yes, because that just said it could be in the legislation, but that doesn't mean anything.

Mr. Clayton Leonard: It doesn't mean anything if you don't act on it, but I think that if the right were in the bill and the bill passed, then we would have the ability, instead of arguing whether the right exists, to go to the court and say, "Canada has recognized it does. It's in the bill, so what does that mean?"

Mr. Martin Shields: Getting it in the legislation provides you with the ability to proceed with legal action if you believe that that action does not happen.

Mr. Clayton Leonard: Yes, either the action or negotiations could then focus on what fulfilling that right means in terms of investment in infrastructure at Ermineskin and other first nations.

Mr. Martin Shields: One of the other things we've heard from other witnesses is that we've heard enough, that the bill should be passed as it is and that we should move on. They believe we've

heard enough and we've been able to hear enough witnesses tell us what the concerns are.

What's your opinion on how many witnesses we should listen to? If that had been the case, you wouldn't be here today.

Mr. Clayton Leonard: I'm not a politician, so I can't answer how many witnesses you feel you should listen to.

Mr. Martin Shields: Should we have heard your voice today?

Mr. Clayton Leonard: I just hope that, however many witnesses you have, you're listening to them.

Mr. Martin Shields: Should we have heard your voice today?

Mr. Clayton Leonard: As I said in June when I came here, after working for almost 18 years on this issue, I'm getting pretty tired of the sound of my own voice talking about safe drinking water.

Mr. Martin Shields: I appreciate that.

Are there any last comments? We haven't heard from—

The Chair: Mr. Shields, I'm afraid you've used up your time. There will be another round.

Mr. Martin Shields: Thank you.

The Chair: With that, we'll move over to our second questioner.

Mr. Battiste, the floor is yours for six minutes.

Mr. Jaime Battiste (Sydney—Victoria, Lib.): Thank you, Mr. Chair.

We were asked a question about whether we support your right to clean drinking water. I can't speak for the government or for the committee, but I am a member of one of the first nations here that live on a first nations reserve. The intent of this legislation is to make sure that not only Ermineskin has safe, clean drinking water, but it's for all indigenous people in Canada, especially first nations on reserve. That's the intent.

In terms of saying how we got here, the amendment process and whether we're listening, we haven't gotten to the amendment process. We will get there after we hear all of the feedback. I think it's important that you know this legislation was passed by unanimous consent of all parties to get it here so that we could hear from communities.

I want to go to Dr. Wilton Littlechild first.

Willie, could you talk to us a little bit about what UNDRIP and Bill C-15 say about water in relation to this legislation? How can we improve this bill by what's in UNDRIP? What are some of the things we can do to make sure the amendments move forward?

Dr. Wilton Littlechild (Commissioner, Commission on First Nations and Métis Peoples and Justice Reform): Thank you very much.

[Witness spoke in Cree]

[English]

First of all, greetings in Cree, and I express my thanks for the opportunity to be here.

To go directly to your question, I want to, first of all, express my thanks to my leaders for allowing me to be here to support them on questions like that. I worked on the United Nations Declaration on the Rights of Indigenous Peoples, which was finally adopted, without qualifications, after 39 years on the journey. Those four decades...actually, on behalf of my nation, *Maskwacis*, as we say in Cree for Ermineskin. You all know, I think, that Canada, after 27 years of debate, voted against the declaration, and then took 12 more years after that to actually come to supporting it. During that intervening time, of course, I heard many states argue against and for the declaration.

Subsequent to that, there's the Organization of American States' declaration on the rights of indigenous peoples. The OAS declaration actually improves on the UN declaration, and going forward we need to look at both declarations. To go to Mr. Shields' question as well, I'm really happy that article 19 is in the bill. In its preamble.... Article 19 actually goes beyond consultation. Article 19, of course, instructs us, before legislation is adopted, that you seek to obtain the free, prior and informed consent of indigenous peoples, so it's beyond consultation. The OAS declaration supports that and, in fact, goes beyond that. For example, in treaty, it requires us to look at, as the Supreme Court of Canada also said, how do indigenous peoples understand the treaty right to water? How do they express their consent in safeguarding fresh drinking water? How do they then come to engage the spiritual elements of treaty? Those are all now in the OAS declaration.

I applaud the members engaged. I'm going to take a second, please, to applaud you for coming to the Permanent Forum this year in New York, the whole committee. I was really encouraged by the committee's appearance there, because it shows your serious intent to assist us in advancing towards reconciliation.

To answer your question directly, the question about the UN declaration, yes, it's great that article 19 is there, but there are other subsequent, very relevant articles of the UN declaration that, if incorporated into the bill, would strengthen the bill—not only strengthen the bill, but encourage us to support the bill. Right now it's short, and I've been critical about that right from the outset, from the perspective of the treaty lens and of the UN declaration lens. Let's include those articles that will improve the bill, and then we can get to a point, going forward, to advance reconciliation.

● (0850)

Mr. Jaime Battiste: Thank you, Dr. Littlechild.

I'm sure that you'll probably send something that would give us a little bit of indication of how these amendments could work.

You mentioned that we were at the Permanent Forum. One of the recommendations you made, which I followed up on by tabling a

motion here, is that we spend one meeting hearing from the Permanent Forum about what happened and asking questions. We didn't reach consensus on how much background information we need to move forward. I'm wondering if you could submit something to us or just answer a question. In terms of looking at the Permanent Forum and getting a discussion about what was relevant and what we should be hearing in this committee, how much background information do you think we need?

The Chair: I'm sorry, Dr. Littlechild, but just give a short answer, please.

Dr. Wilton Littlechild: I think that it's one thing to attend the Permanent Forum or the UN Expert Mechanism on the Rights of Indigenous Peoples to hear voices from around the world, especially those from Canada. However, what's lacking is an implementation follow-up mechanism.

Yes, it's great. In fact, I was there yesterday. I just came from the United Nations last night to be here. What is missing is opportunities like this. There is no committee, for example, directly on the international obligations of Canada with respect to indigenous peoples here in the House of Commons or in the Senate. It would be very important, I think, to have your committee, for example, have a standing agenda item on follow-up to the UN discussions, follow-up to the UN recommendations or advice to the Human Rights Council, for example, just last week in Geneva.

I think it's important. If you want to engage the UN declaration in Bill C-61, those discussions would help us collectively if there were a mechanism like this one this morning to share information and exchange proposals or ideas to ensure that we're working together going forward—indigenous, non-indigenous—regarding treaty relations—

● (0855)

The Chair: I'm very sorry. I'm afraid I'm going to have to step in here. I apologize for that, but there will be another round of questioning with the Liberals.

With that, we're moving on to our third questioner here.

[Translation]

Mr. Lemire, you have the floor for six minutes.

Mr. Sébastien Lemire (Abitibi—Témiscamingue, BQ): Thank you, Mr. Chair.

Meegwetch, everyone.

Ms. Keleutak, how is an Inuit community affected by the insecurity around such an essential service as access to drinking water? How do these water supply issues affect your communities, and children in particular?

Ms. Harriet Keleutak: For children, it means that they don't wash, brush their teeth or have a clean house. They often go to school without having had breakfast.

Children and young people are often absent from school because of a lack of water in their homes, especially in some villages. We operate in 14 villages, and drinking water is available every day in most of them. However, in some communities, this isn't the case. Last winter, two communities didn't have access to drinking water or to the collection of waste water by truck for 11 or 12 days. When this goes on for too long, children must come to school without washing or brushing their teeth. This leads to dental issues and lice in our schools as well. Sometimes the essential services aren't there.

It's as if we don't have the right to access drinking water, while others around us have that right. We want the same rights as everyone else. The lack of access also results in a lack of access to education.

Mr. Sébastien Lemire: Schools have been closed because of a lack of water supply. I think that this shows the impact of this issue on children and their education.

I want to thank you for your commitment to children over many decades.

You have been critical of the Quebec government, and for good reason, particularly with regard to the proximity of Hydro-Québec infrastructure. However, I want to hear about your expectations for the federal government. It must fulfill its obligations regarding the rights of indigenous peoples and their living conditions. What do you expect from the federal government in terms of the water supply, especially in your schools?

• (0900)

Ms. Harriet Keleutak: I expect it to stop saying that we have the right. It isn't a matter of rights. Access to drinking water is vital to life. Why does the government say that this right must be included in legislation or in an international declaration when everyone living in Canada is entitled to it?

I expect the federal government to stop telling us that we must declare that we have the right to access essential services, such as drinking water. How did people living in Montreal declare their right to water and sewer systems? Why don't the Inuit communities have the same right? What's the difference between the two? Everyone living in Canada has the right to access safe drinking water, regardless of whether this right is explicitly stated in a declaration. It's an essential service for our lives.

Mr. Sébastien Lemire: You rely on tanker trucks. This system isn't ideal. In an ideal world, what system could you implement in your community to ensure a full supply of drinking water? Who do you think should pass this bill?

Ms. Harriet Keleutak: The federal and provincial governments should foot the bill. If the people farther north in Greenland can have a sewage system and underground infrastructure, what's the issue here in Canada? What's the issue in Quebec? We have a community called Kuujjuarapik. Half the community, called Whapmagostui, is inhabited by Cree people, and they have a sewage system. However, 13 of our communities don't have one. What's the is-

sue for these 13 communities? The other communities farther north have sewage and water systems.

Mr. Sébastien Lemire: I want to thank you for your testimony and for your decades of commitment to Inuit children.

The Chair: Thank you, Mr. Lemire.

[English]

Next, we have Ms. Idlout for six minutes.

The floor is yours.

Ms. Lori Idlout (Nunavut, NDP): [*Member spoke in Inuktitut, interpreted as follows:*]

Thank you, Mr. Chair.

I am happy to see you here. It is very important, this safe water.

First, I'd like to thank you for mentioning Inuit when you asked what Inuit do on this policy. Are they included in this bill's protection?

Ms. Harriet Keleutak: [*Witness spoke in Inuktitut, interpreted as follows:*]

I'm not aware that they are included. We don't know what goes on with policy-makers, but when they talk about safe water and waste water and hygiene ideas, we should be immediately involved in the discussions when a problem is identified. It has to be in the policy that we are immediately involved as equal partners right at the beginning. I need to see a policy that indigenous people will be immediately involved in the discussion of the issue.

Ms. Lori Idlout: [*Member spoke in Inuktitut, interpreted as follows:*]

Thank you for replying. I'm very happy to hear that.

I will ask other people. I will ask Clayton.

Regarding Bill C-61 when it was introduced, I thank you wholeheartedly, because you consulted with us right away and gave us the outline and the problems identified, and what needed to be added and what needed to be amended in the policy, because the rights of indigenous people had to be in conformity with everything. The rights that we had were taken from indigenous people. We knew how to run our own affairs, but that was taken away from us.

Bill C-61 wants to return the rights of the indigenous people regarding water management. What else do you have to amend if indigenous people are going to be governing and running this management and policy?

• (0905)

Mr. Clayton Leonard: I'm going to surprise the chair and be very brief.

We submitted a written submission from the Ermineskin and Blackfoot nations in June that set out, in detail, the amendments that we believe are necessary to the bill, including the addition of four UNDRIP articles.

I can speak about those, if anybody likes.

Ms. Lori Idlout: I apologize. I don't think my intervention was properly interpreted into English. I was asking about jurisdiction.

I shared that I very much appreciated how, when Bill C-61 was first tabled, your office and the first nations you work with reached out to us—all MPs—right away and provided very tangible recommendations, as I understand, to improve the bill. These improvements will help make the lives of first nations healthier.

One of the recommendations that were made to us was about the fact that there are concerns regarding jurisdiction. I wonder if you could share with us the importance of jurisdiction, especially knowing that jurisdiction was stolen from first nations. Bill C-61 is looking to return that jurisdiction to first nations, yet it doesn't ensure there's full implementation of the allowability for actual jurisdiction.

If you could speak about that, I would very much appreciate it.

Mr. Clayton Leonard: I think Ermineskin has spoken in support of the broad recognition of the right of self-government over water on reserve lands.

One of the more difficult parts of the bill is in answering the question of what the role is of first nation governments in the management of watersheds they're in, because that involves a number of other levels of government—provincial, federal and even sometimes U.S. federal and state governments. I don't have a whole suite of amendments on that issue, but I think the section of Ermineskin's submission prepared by Dr. Littlechild highlights the importance of article 32.2 of the UN declaration.

It says:

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

I think that would provide a benchmark in the bill for what it means for first nations to be involved in watershed management and source water protection.

Ms. Lori Idlout: *Qujannamiik.*

I invite anyone from the panel to respond to this question.

I know there has been criticism that legislated minimum standards are not strong enough. I wonder if anyone can provide us with recommendations on how these minimum standards for the recognition of rights must be clear, measurable standards to ensure that water will actually be safe and usable.

The Chair: They are going to have to be very brief answers, because we're running over time. I gave Ms. Idlout a bit longer for her time because of translation issues.

• (0910)

Mr. Clayton Leonard: I'll point the committee to page 2 of Ermineskin's written submission. It discusses the core amendment, which is the amendment regarding first nations' right to safe drinking water. Then, in the following paragraph, it suggests where other changes in the bill need to be made in order to be consistent with that.

The Chair: Thank you very much, Ms. Idlout.

That concludes our first round of questions.

We're moving on to the second round. As we are a bit over time, it's going to be an abridged second round. We're going to reduce it pro rata, so it will be four minutes, four minutes, two minutes, two minutes, four minutes and four minutes for questions, starting with the Conservative Party.

Mr. Melillo, you have four minutes. The floor is yours.

Mr. Eric Melillo (Kenora, CPC): Thank you very much, Mr. Chair.

Thank you again to all of the witnesses for being here on this important discussion.

I'll go to you, Mr. Leonard.

Both you and the chief mentioned the language of “best efforts” and how vague that is. Throughout the bill, we also see many mentions of the minister having to “consult and cooperate”. However, the minister has the power with this legislation, in many cases, to unilaterally make regulations after consulting and co-operating.

Do you have any views on how vague that language is and how it is still giving a lot of control to the minister, rather than to the first nations?

Mr. Clayton Leonard: My understanding of the bill is that first nations' ability to pass their own laws regarding water would supersede the regulations passed by the minister. I think the non-derogation clause also supports first nations' assertion of their right of self-government over water in a way that goes beyond the four corners of the bill as well.

Mr. Eric Melillo: Okay.

Mr. Clayton Leonard: At least the non-derogation clause would ensure that the bill can't be interpreted as to interfere with that.

Mr. Eric Melillo: Understood. I do believe the language of “consult and cooperate” should be more explicit in the bill to include consent.

Mr. Clayton Leonard: One of our criticisms is that the preamble mentions article 19 and then, pardon the pun, waters it down in the bill.

Mr. Eric Melillo: That's right, because it's one thing to put something in the preamble, and it's a whole different thing to have it in the legislation. Can you explain that difference, just for folks who could be watching?

Mr. Clayton Leonard: I don't think you have to be a lawyer to understand what consent means.

Mr. Eric Melillo: I'm sorry. I'm talking about the difference between having something in the preamble of the text versus having it in the body of the legislation.

Mr. Clayton Leonard: The preamble provides guidance and spells out the intention of the Crown, but it doesn't create enforceable law. One of the core issues we've pointed to is that UN Resolution 64/292, the UN resolution on the right to safe drinking water, although it's not actually referenced directly, is referenced in the preamble, and then it's not in the bill.

Mr. Eric Melillo: Thank you. I appreciate that.

With the limited time left here, I would like to ask you this, Mr. Leonard: In your view, within the context of this bill, what is a protection zone?

Mr. Clayton Leonard: I'm sorry, but I couldn't hear the last part.

Mr. Eric Melillo: Within the context of this bill, what is a protection zone?

Mr. Clayton Leonard: A protection zone.... I don't know. It seems to be after consultation at the discretion of the minister, and it doesn't seem to have any connection to how effective watershed management protection actually works.

Siksika gave a great example when they were here in June. They're 100 kilometres after every tributary of the Bow River basin comes to one point, so they will literally feel the impact from anything done in that watershed. The protection zone, effectively, for a nation like that, would be the entire watershed.

There's just nothing in the bill that seems to be connected to how that's actually done in Canada and other places in the world.

Mr. Eric Melillo: Right. Rather than not having that defined in the bill and leaving it up to the minister to determine through regulation, do you have a suggestion on how that could be more appropriately dealt with at this point?

Mr. Clayton Leonard: I'm not shrugging off the question, but it can't be dealt with in a two-minute answer.

• (0915)

Mr. Eric Melillo: Fair enough.

Mr. Clayton Leonard: I'm happy to write something.

Mr. Eric Melillo: Please do, if you could.

Thank you.

The Chair: Thank you very much, Mr. Leonard. If you could submit that to the committee, I am sure that all members would be very interested in seeing that.

With that, we're moving to our second questioner in the second round.

Mrs. Atwin, you have four minutes.

Mrs. Jenica Atwin (Fredericton, Lib.): Thank you very much, Mr. Chair.

Thank you to our witnesses for being with us today.

Right off the top, Chief Mykat, I absolutely believe in the inherent right to clean drinking water. That's one of the reasons I ran to be involved in politics. It was 2019 when I first got here. Sadly, it's taken this long to get to this point, but I am so excited as well to get to the amendment process, because we have heard incredible testimony from incredible leaders like yourself. Your voices will be heard and will be represented in this bill because it's about you and your people.

Also, I just want to thank our witness as well who's online. The pictures of the children behind you really remind us what this is about. We can't necessarily go back in time for those who have been dealing with this for far too long, but we're going to fix this for the children, moving ahead.

I wanted to ask this, through your counsel today. In a letter sent to our committee, the Alberta environment minister, Rebecca Schulz, encouraged us as a committee "to consider the roles provinces and territories have as leaders, collaborators, and stewards of water that they own and regulate, as it works through its mandate." The letter goes on to say, "The federal government's role should complement—not conflict with—provincial responsibilities. Bill C-61's provisions on source water generally and source water protection zones must be carefully considered to avoid exceeding the federal power to legislate as well as jurisdictional conflicts."

Would you say that Alberta's government's actions to protect source water are those of "leaders, collaborators, and stewards"?

Mr. Clayton Leonard: No.

Mrs. Jenica Atwin: Thank you.

She also told us that "Alberta has not been meaningfully engaged in the development of Bill C-61."

Has Minister Schulz reached out to you to discuss new water legislation, either before or after it was introduced?

Mr. Clayton Leonard: No.

Mrs. Jenica Atwin: Have you seen any interest or involvement from Minister Schulz when it comes to working with first nation communities?

Mr. Clayton Leonard: I have not personally, no.

Mrs. Jenica Atwin: Have you heard from your local members of Parliament?

Mr. Clayton Leonard: No. I live in Victoria, though.

Mrs. Jenica Atwin: We've also invited Minister Schulz to appear as part of this study. Should she choose to accept our invitation, what should we keep in mind when asking her questions?

Mr. Clayton Leonard: It's my understanding that what is consistent with Alberta's formal position, particularly on first nations' water rights and first nations' jurisdiction over water, is that if first nations ever had such rights, they were extinguished, so the water in and under reserve lands is the property of the Government of Alberta, and the Water Act applies to first nations. They don't reference any legal foundation for that position.

It's my understanding that, should the bill pass, Alberta may bring a legal challenge to the recognition of first nations' right to self-government over water on reserve and the ownership of water in and under reserve by first nations.

I'd just leave the committee with some knowledge that Alberta has entered into agreements with at least four nations in the province, which contain provisions that prevent the province from raising those issues in a court of law so long as those agreements are valid and still in place. I'm happy to share the clauses of each one of those agreements with the committee.

I don't think Alberta is at liberty to challenge the bill, because of those agreements.

Mrs. Jenica Atwin: I'm very short on time.

Just quickly, what does the relationship between your communities, Alberta and Canada need to look like to protect that source water piece?

Mr. Clayton Leonard: Alberta's protection of source water is largely done through a voluntary mechanism. There are watershed groups that are funded by the province and they develop watershed management plans that are more guiding policy than enforceable under Alberta's Water Act.

One suggestion we made to Canada during the engagement on this bill was that, if there is a major project upstream from a first nation, there would be something in this bill that couples it with a trigger under the Impact Assessment Act. For example, the premier of Alberta and the cabinet are about to have a decision to make on a brand new dam on the Bow River between Calgary and Cochrane. That impacts the only first nation that's downstream, which is Siksika.

I think similar issues would apply to every first nation. If they're making water management decisions or deciding on projects that affect the source water of a first nation, then there should be a full federal review involved in the project.

● (0920)

The Chair: Thank you very much, Mrs. Atwin.

With that, we're moving to our next questioner.

[*Translation*]

Mr. Lemire, you have the floor for two minutes.

Mr. Sébastien Lemire: Thank you, Mr. Chair.

Mr. Leonard, I'll ask you my question, which can also be answered by a chief.

When it comes to privatizing services, cities and municipalities face pressure from the private sector, including lobbying. As a re-

sult, the bill's wording doesn't rule out the privatization of service delivery on indigenous land.

We know that you have reservations about this topic. I think that we must take proactive steps and support first nations in developing the management of this jurisdiction in terms of drinking water and waste water treatment by and for indigenous communities. Drinking water and waste water systems must also remain the property of first nations and no exclusivity clause should be granted to private companies. This would ensure healthy competition in development and entrepreneurship by and for first nations.

Do you have any concerns about the fact that the bill doesn't exclude non-indigenous companies from the privatization of service delivery, and that it lacks dispute resolution mechanisms in the event of a conflict or a failure to provide services?

[*English*]

Chief Joel Mykat: Again, thank you for allowing me to be here and for taking the time to meet with us. I know I'm short of time.

For one thing—and I'm going to be blunt again—I always think of treaty. When the visitors, when Canada first came here, our hearts gave for our visitors to make sure your women, your parents and you were safe. Water is life. If you can look at anything.... Even my elder here, a respectful man.... We looked at everything, and everything involves water.

To make a long story short, I think our treaty needs to be respected to this day, no matter how far we go back. I want what's best for my people the way I want what's best for your people and you and your families. There shouldn't be anybody left behind when it comes to water. I don't know your big political words, but I know where my heart and my mind are. I don't think anybody in this world should be suffering without water.

As you can see, our water is so bad that I'm drinking a lot of your water because I don't have clean water back home. I wish I could have brought water here to show you and say, "Have a drink." Would you bathe in it? Would you put your children in it? Would you put your elders in it—each and every one of you?

I want my people to be safe, just as much as I want each and every one of you to be safe and your families to be safe. I can go on and on. I'm sorry but I'm not sorry. That's where I stand. I believe we need to be respected—and not just Ermineskin Cree Nation. I may not have the right to speak for the rest of the nations, but we are all one.

I would say that I think respect needs to be given both ways. We shouldn't have to answer for something and ask for something that we shared with.... When visitors first came, we offered our land and our waters. We never surrendered anything.

I'm going to stop there for now.

[*Translation*]

The Chair: Thank you, Mr. Lemire.

[*English*]

Next, we have Ms. Idlout for two minutes.

● (0925)

Ms. Lori Idlout: [*Member spoke in Inuktitut, interpreted as follows:*]

Thank you, Mr. Chair.

I will ask you.... It says that you will receive.... There are two restrictions we are thinking about, and we're looking for the best solution. If you have to negotiate with the policy-makers or the committee regarding the jurisdictions that you're responsible for....

[*English*]

I'm going to switch to English, because it's not being interpreted correctly.

My question is for the chiefs. Bill C-61 will allow you to negotiate with provinces regarding source water. My question to you is this: What do you foresee will be the challenges to negotiate with provinces on source water?

Mr. Clayton Leonard: I think the chief wants me to answer that question.

I've already given a sense of the relationship between Alberta and first nations when it comes to water, so it's not a great starting point. I don't think it has to be that way, though. Water is important to everybody who lives in a watershed, so it can be a unifying factor instead of something that's dividing.

Mr. Clayton Leonard: I'll turn to Wilton.

Dr. Wilton Littlechild: Thank you very much.

If I may, I'll add a little bit to two or actually three questions by informing you that Ermineskin Cree Nation has its own constitution, which predates the Canadian Constitution. As a government, Ermineskin Cree Nation has jurisdiction over water and over whom they choose to work with.

To respond to the earlier question about private industry or private corporations and working together with us, that option as to whom we choose to work with in terms of water management, or any aspect of safe drinking water, rests in the Ermineskin Cree Nation. Through our constitution, we have a water act at Ermineskin, so we're exercising jurisdiction over water through our government in a treaty relationship nation to nation with the Crown.

Hopefully, that captures where we're coming from in a way that answers several of the questions that have been put forward.

The Chair: Thank you very much, Ms. Idlout.

From that, we'll be moving to our second-to-last round of questioning with the Conservative Party.

Mr. Schmale, you have four minutes.

Mr. Jamie Schmale (Haliburton—Kawartha Lakes—Brock, CPC): Thank you very much to our witnesses for this great conversation. It's good to see some familiar faces again.

I wouldn't mind picking up on this, Chief Mykat, if you could, and I know you mentioned a bit of it in your words earlier. Let's talk about the situation you were dealing with and what you were talking about.

If you had brought some water from your community and put it in front of us.... Tell us a bit about the challenges and how you got to that point where it's not even acceptable to bathe in the water that comes out of the tap.

Chief Joel Mykat: Well, I'm going to say that there's a number there again, but the way I see it, living there, in my reality, I'm going to say it's probably more than 80%. When I go out to visit, I look at people's water when it comes out of the tap. It has all sorts of colours: very dark, very dirty. Long story short, if you were in my home and I said, "Have a drink", would you drink it? I'm sure you would pass.

For many years, I've heard discussions that our treaty was disrespected. One of the discussions that made me upset was saying that Canada and Alberta own the waters, but how could that be? I still don't believe that.

Again, as you know, our plant was made in the 1970s. Nothing was looked at. Our people are getting very sick with cancers and whatnot, with bad skin, and the list goes on. My only answer to this is that I welcome each and every one of you to come to my home fire and see that—and not just ours. You'll see that in many first nations.

● (0930)

Mr. Jamie Schmale: If I could, sir, just because I have only two minutes left, the treatment plant has been down for how long?

Mr. Clayton Leonard: I have those details for you.

Mr. Jamie Schmale: That's perfect. Yes, please.

Mr. Clayton Leonard: The problem that's been created at Ermineskin by Canada is first applying the LoSS standard, which looks at a very short horizon and the cheapest option for planning water infrastructure.

What engineers have identified, as recently as 2019, at Ermineskin is that there needs to be a new water treatment facility that is state of the art and provides piped water to every home in the community.

There's been a downward decline in the quality and quantity of groundwater since the 1970s, and it's something that ISC keeps throwing little band-aids at for the wells that service the community.

Mr. Jamie Schmale: That's what I want to talk about as well.

I think we all have companies in our...even my community has a couple that have great technology that can deliver clean drinking water. The issue seems to be at ISC, because they're not looking at the larger picture, which is a new plant. They're just looking at the cheap, quick fix, and then they move on.

Mr. Clayton Leonard: It's always easy to blame Indian Affairs, but Indian Affairs has political masters, and every party sitting around this table bears some responsibility. The Conservatives failed to address this issue when they were in power. There was a lot of—

Mr. Jamie Schmale: I'm not trying to blame a party; I'm just trying to get to one of the causes of why this continues to happen.

Mr. Clayton Leonard: It's chronic underfunding and band-aid solutions.

Most communities, if you look elsewhere in Canada, plan drinking water infrastructure on a 30-year to 40-year planning horizon, and they make investments that are intended to last that long. Under the funding of first nation water systems, it's been two to five years and 80% of some fictional cost, instead of doing what's necessary in terms of infrastructure.

The Chair: Thank you.

I'm sorry, Mr. Schmale; we're over time here.

With that, we'll be moving to our last round of questioning in the first panel.

Mr. Hanley, you have four minutes for questions.

Mr. Brendan Hanley (Yukon, Lib.): Thank you.

Thank you to all the witnesses.

I'm pleased to ask my first few questions as a new member of this committee.

To your question, Chief, I also agree that access to clean drinking water is a fundamental human right.

I'm going to somewhat continue the line of questioning from Mr. Schmale, because I'm thinking, Mr. Leonard, of your earlier comments that it's all about implementation in the end, that the commitment is fulfilled when you see implementation.

Let's say that we look into the future, hopefully not too far into the future. You now have a modern, efficient, clean water system that all citizens have access to, just as you were saying, piped water available to all households. What are the enablers that will have enabled you to get there at the provincial level? Of course, our focus is more on the federal level. How will the right amendments in this legislation help you get to where you need to be?

Mr. Clayton Leonard: I think the amendment proposed by the Ermineskin, which recognizes a right to safe drinking water, is also tied to changes to other parts of the bill, and it would inform, in a much more meaningful way, what Canada's "best efforts" means. Canada's "best efforts" means that every person in the community has a right to turn on the tap and not have a risk to their health or well-being. That's what "best efforts" means. It doesn't mean that the last 30 years are good enough.

• (0935)

Mr. Brendan Hanley: We know that operation and maintenance of these systems can be difficult, and I think that's where there has been failure. Either the systems haven't been robust enough, or sometimes the systems have been so complicated that there's a lack of capacity to maintain them, at least in my experience from what I've heard about models.

My question would be whether a first nations-led national water authority would potentially be helpful to provide that leadership in operating and maintaining water systems, or do you see other national mechanisms that would be helpful, again thinking about the implementation and durability of good systems?

Dr. Wilton Littlechild: If this answers your question, there is a proposed national commission that I think would do what you're getting at, so that's one of the steps, yes, indigenous-led.

Mr. Brendan Hanley: Could you tell me a bit more about that commission and what that commission proposes?

Dr. Wilton Littlechild: I think it's in the process of being established. When I last asked questions about it, the persons who would serve on the commission had not been identified, but it's a work in progress, I would say.

Mr. Brendan Hanley: Thank you.

I don't know if I have time for another question.

The Chair: You have 30 seconds.

Mr. Brendan Hanley: Ms. Keleutak, I know time is short.

When it comes to the right governance mechanism for you and Nunavik to have the water system that you need, can you reflect on the appropriate authority or governance mechanism that would help you?

Ms. Harriet Keleutak: I think if our ministry at the Quebec government, the minister responsible for our region.... They know what the problem is. They know how to fix it, but we have always been made to beg for essential services.

I don't know how to make it easy to understand. You're asking me who has the authority to make it happen. It's the Quebec government in my region that has the authority to make things happen, working with our regional government and our municipal services that have the authority to make things happen. When it comes to responsibility, our governments always seem to find legal jargon or a legal term to make sure that we wait and wait and wait to the point of becoming so desperate that we start acting in a weird way. Then we are defined or looked at as not normal people.

The Chair: I'm very sorry. I really hate to intervene and end on this point, but we're well over time here.

I want to thank Mr. Hanley for his questions.

I want to thank all the witnesses for being here today, both joining us by video conference and coming from New York, Alberta or Victoria. We really appreciate all of your testimony today and your suggestions.

There were a number of requests for documents to come afterward, so please, if you could provide any of those suggestions, amendments and recommendations in writing to this committee, it would be much appreciated as we go into clause-by-clause consideration in due course, so that we can make this bill the best it can be.

With that, I just want to thank the witnesses again for being here today and for their testimony.

We will briefly suspend as we get ready for the next panel.

• (0940) _____ (Pause) _____

• (0945)

The Chair: I'm calling this meeting back to order.

We're moving on to our second panel. We have, joining by video conference, Chief Billy-Joe Tuccaro from the Mikisew Cree First Nation.

Thank you for joining our committee today. We will start with five minutes of introductory remarks.

The floor is yours.

Chief Billy-Joe Tuccaro (Mikisew Cree First Nation): Good morning, everyone. Thanks for having me. It's a beautiful morning here in northeastern Alberta.

First of all, I'd like to thank the honourable members for allowing me to speak today.

My name is Billy-Joe Tuccaro. I'm the chief of Mikisew Cree First Nation. Mikisew's territory is located in what you know as northeastern Alberta. Our land includes the Peace-Athabasca delta and Wood Buffalo National Park, a UNESCO world heritage site. This is where our people have lived since time immemorial, where the Peace and Athabasca rivers meet and eventually enter Lake Athabasca.

Many of you know Mikisew because we are downstream from the Athabasca oil sands or because we have been raising alarm bells about our community's cancer rates, which we believe are coming from the fish we eat, the water we drink and the medicines we harvest. I have spoken at a committee in the past for Imperial Kerl and the freshwater study. I explained how, for our people, water is boss. I explained how our women have jurisdiction over water, and because they were excluded from treaty-making, we never treated our water. The water in Treaty 8 is, in your words, "unsurrendered".

Today, I should be speaking to you about our existing jurisdiction and honouring the treaty. Instead, I'm here to talk to you about your legislation, Bill C-61, and what it will impose on us.

In a nutshell, Bill C-61 may sound better than the Indian Act, but it does the same thing. We are asking for an end to this colonization through legislation. Please reject Bill C-61.

To support this request, I will raise four issues.

First and foremost, I am here to remind you about our treaty. The treaty is why we are all here today. Our ancestors agreed to share the land with the Crown. No legislation can supersede this promise.

Second, I would like to talk about what Bill C-61 calls "source water". It is absurd to think that a federal regulation can displace the province's full control over our water, for example in the granting of water licences to withdraw and release industrial waste water. Why is the province in the driver's seat? Nowhere in Canada's Constitution does it say the province has all jurisdiction over water. I am told that Alberta's jurisdiction has evolved from powers over property rights and local works. Meanwhile, the Constitution says that the federal government has jurisdiction over fisheries and navigable waters, yet Canada has failed us by surrendering regulatory control over source water to Alberta.

By looking at the oil sands, I can explain this problem. The tailings ponds are the largest industrial waste site in the world. We have learned from operators' reports submitted to the Alberta Energy Regulator that tailings toxins are seeping into the muskeg, groundwater and rivers, including the Athabasca River, where our drinking water comes from. Canada and Alberta know about this. The tailings contain at least 1.4 trillion litres of toxic fluid. Alberta and Canada intend to treat and release much of these tailings into the Athabasca River, which is totally uncalled for.

Bill C-61 won't do a single thing to stop the treatment and release of toxins into our so-called source water, so again, let's go back to treaty, the natural resources transfer acts and the Constitution. None of that gave Canada or Alberta jurisdiction to do what they are doing with our water.

Third, where is the human right to water? The UN special rapporteur on the human rights to safe drinking water called on Canada in April to constitutionally recognize this internationally protected right. Let's do that instead of Bill C-61.

• (0950)

I might also add, where I live in Fort Chipewyan, it's now \$30 for a flat of water. I was just recently down south and I purchased a flat of water for \$4.99.

Fourth, what about our laws? Bill C-61 claims to recognize our self-government. This bill does no such thing. If we decide to pass a law under Bill C-61, the minister's regulations will become our law on reserve. This is one reason we say Bill C-61 is like the Indian Act. It imposes federal law on us, disguised as a promise of self-government.

We will not let this happen again.

Thank you.

The Chair: Thank you very much, Chief Tuccaro.

We will begin with the one and only round of questioning, starting with the Conservative Party for six minutes. I believe it's Mr. Shields.

I'll turn the floor over to you.

Mr. Martin Shields: Thank you, Mr. Chair.

Thank you for being here today. I really appreciate hearing from you and being part of this discussion about Bill C-61.

One thing that you've submitted is a letter from back in June where you took note of Minister Hajdu's statements in December introducing a bill whereby she wrongly used your nation's experience without consent or having consulted your nation through your authorized representatives on this legislation. I think consultation is something I've asked about before. You're even objecting to your name being used by the minister because you didn't feel that she had the right to use it and had no consent.

Is this some of the anger that I'm obviously seeing in what you believe about this legislation and how you have been misrepresented in this process?

Chief Billy-Joe Tuccaro: Thank you for the question.

First of all, I'd like to mention that I became the chief on October 8, 2022. I can say that to the current time, there has been absolutely no consultation in regard to this bill that's being rammed down our throats. I've also done my research. Prior to my becoming the chief, there was no consultation in regard to this bill.

Therefore, yes, I do take offence to that. If people are going to say they have consulted with Mikisew, I would appreciate having that conversation and at least consult back and forth and have our concerns heard.

Consulting with AFN, any tribal nations or anybody else does not speak for Mikisew. Through the treaty, we have the right to be consulted nation to nation. I can say that there has been absolutely no consultation in regard to that, so I do take offence to that.

Thank you.

• (0955)

Mr. Martin Shields: You have made a number of statements about Bill C-61 and I think you're pretty clear on this. You think this piece of legislation should just be dropped. You're replacing it completely with statements that you've made about other documents, like the United Nations document.

Is that the way you see that it would be best to go forward? Is it to just absolutely drop this piece of legislation and replace it with something totally different?

Chief Billy-Joe Tuccaro: Yes. People have to understand where we're situated in northeastern Alberta. People have to remember we're situated downstream from oil sands. That's the reason.... This bill might work for the rest of Canada, but we know for a fact that Alberta will always have its hands in the bucket with regard to water and with regard to what they need to do to develop the resources.

That's the reason I'm saying that we are in total opposition to this bill. We know for a fact.... I know I'm going to eventually be questioned about amendments to this and what amendments would work. There are absolutely none, because we know for a fact that once we give an inch, they take the whole land. I'm not even going to say a mile. They take the whole land.

Thank you.

Mr. Martin Shields: I think one of the things you referred to in your documentation was that this would basically municipalize you in the sense of the process. I'm familiar with the municipal structure, and if we're looking for money for infrastructure, water, sewer and the rest of it, we deal with the federal government, looking for money. Do you think that's where you'll be placed under this legislation? Do you think you'll be just like a municipal government?

Chief Billy-Joe Tuccaro: Yes, we are thinking that. That's what's going to happen, because we know what the ultimate plan is for Canada. It's to municipalize all reserves. That's the reason why we, as treaty people, are in total opposition to this bill.

Mr. Martin Shields: If you were to have the ability... Let's say you had your wish granted to drop Bill C-61. What kind of process do you see working as far as consultation is concerned? What would work that you believe hasn't occurred before and needs to occur?

If you throw out Bill C-61 and you get your wish, what would the process look like for you?

Chief Billy-Joe Tuccaro: It would be to have that conversation. That's what consultation is about, to see what has worked, what hasn't and what are the possible solutions moving forward in regard to it.

First of all, if you're going to ask me about consultation, I truly believe there should be conversation instead of just speaking to other organizations and thinking that's good enough as consultation in regard to the Mikisew people.

People have to remember that in the oil sands region my people make up about half of the whole population in this whole region. We're not only situated in Fort Chipewyan; we're situated throughout.

Mr. Martin Shields: Then, when there are over 600 nations in the territory of what's called Canada, how do we feasibly do that kind of consultation?

The Chair: It's going to have to be a very short answer.

Make it a very short answer, Mr. Tuccaro.

• (1000)

Chief Billy-Joe Tuccaro: It's to speak with every nation individually. Don't go to any organization and figure that's your guy's answer of getting what you need to get your approval.

The Chair: Thank you very much, Mr. Shields.

Moving to our next questioner, we have Mr. McLeod for six minutes.

Mr. Michael McLeod (Northwest Territories, Lib.): Thank you, Mr. Chair, and thank you to the chief for joining us.

I live in the community of Fort Providence in the Northwest Territories. We're the first community on the Mackenzie River, and we share a lot of your concerns. For years, we were very worried about water quality, because every project in Alberta and B.C. affects us. We're downstream, just as you are. Every farm that dumps into the river or takes water from the river, every sawmill.... The oil sands are something you mentioned, and they concern us also. Spills are happening and we're not being informed.

We have voiced concerns for years and years, but now we're also concerned about the quantity of water. The Site C dam has come on stream. It's holding back water and will be holding back water for the next four months. This is on top of the drought conditions that we're experiencing in the Northwest Territories and B.C. and Alberta.

Even though everybody's telling us that it's not going to impact us, you can come to my community and you can see all the rocks sticking out of the Mackenzie River, one of our biggest rivers in the country. Waterfalls are going dry; they're just trickling now. There are no more majestic falls in and around my community.

All these things are happening and nobody's talking to us in the Northwest Territories. The indigenous governments have been saying for years they have no avenue for a voice.

Because you're saying that the system is not working as it's designed now, and the leaders in my communities are also saying the same thing, I wanted to know how closely you work with communities further downstream in the Northwest Territories.

Chief Billy-Joe Tuccaro: I can speak about that specific area. We share the same concerns as you guys, all the way up.

I'll give you a bit of history first, in regard to the last few years here.

In 2020, when the water levels came up, we were able to access all of our traditional territories. Fast-forward four years.... No, it was last year. In 2023, I had one of my own council members try to access her traditional territory. She was stuck on Lake Mamawi for 24 hours. She had to be rescued because she was high and dry on a sandbar. This year, too, when the conditions worsened, the water was drying up. We sent a letter to BC Hydro and voiced our concern. They said it was absolutely nothing: "That's just how it is when drought conditions are happening." There's no way the water can dry up that quickly. That's the reason why we're very concerned now. They sent us the memo about a month and a half ago. They're

going to be taking the water for the next four months. It's concerning. What's going to happen next spring?

In regard to working with the other nations, we speak with them about the water levels and how we can access water now. There are even talks now of having an all-weather, year-round road because we know we cannot access anything. That's the reason why the table has been set to have these conversations.

We understand there are people getting sick to the north of us, as well. They are having the same concerns. I can say this: As one of the communities situated downstream from the oil sands, we're very concerned for everybody else beyond us. I'm 47 years old. I don't want us to be the ones who were used as collateral damage in regard to profit over people.

That's the reason, I guess, why we've dug our feet in the sand. We're sick of it now. I—

• (1005)

Mr. Michael McLeod: I'm going to interrupt you, because I want to ask one more question.

What you're saying is that the system isn't working. The leaders in your communities are saying it. When it comes to oversight and resources for operating and maintaining water systems, do you think a national, first nations-led water authority could lead to better outcomes?

Chief Billy-Joe Tuccaro: Once again, if we do that, we're taking the government's responsibility away. I truly believe that, if we're going to do something, it should be something like what you're requesting. First nations can lead something throughout Canada, but it has to be in partnership. It has to be a true partnership, too, with the provinces and Canada. It can't just be them giving us the funding or whatever, then pushing us aside and that's it. You have to remember—

The Chair: Thank you very much, Chief.

Chief Billy-Joe Tuccaro: Hold on.

You also have to remember that, where I'm situated downstream, our concerns are very different from those of people everywhere else.

Thank you.

The Chair: Thank you very much. I apologize for having to cut you off. We are over time.

Thank you, Mr. McLeod.

[Translation]

Mr. Lemire, you now have the floor for six minutes.

Mr. Sébastien Lemire: Thank you, Mr. Chair.

Chief Tuccaro, thank you for joining us and informing us of the impact of this situation in your area.

While listening to your opening remarks, I was particularly struck by your comments regarding the proximity of the oil sands and the potential impact on the resource. In my view, source water protection is a key factor.

You're opposed to the bill before us. However, it's our duty as parliamentarians to suggest ways to improve the bill. Subsection 19(2) of the bill doesn't seem to provide for source water protection. As a result, first nations wouldn't be able to draft legislation to protect source water on or near their ancestral land. I think that we should ensure that first nations have the power to do so. We could strengthen certain articles to that effect.

Do you think that it would be appropriate to add a protection zone, established by first nations, and to ensure better coordination in order to hold companies—such as the oil sands operators in your area—liable if they pollute the resource or if the resource is no longer usable? In this case, the polluter would also be held liable. What do you think about this?

[English]

Chief Billy-Joe Tuccaro: Again, you mentioned amendments. I truly believe that the bill should just be struck, but with regard to the oil sands....

Could you repeat the last part of the question?

[Translation]

Mr. Sébastien Lemire: Should the responsibility lie with the person who pollutes the resource, such as water, rather than with the person who wants to consume it?

You said that the oil sands were close to where you live. This can affect the quality of the water resource. Obviously, if this resource were contaminated or polluted, would the company also need to pay for the decontamination? Should the company have a legal responsibility in this area? Should this measure be included in the bill?

• (1010)

[English]

Chief Billy-Joe Tuccaro: If I could support anything in this bill, it would be that.

Thank you.

[Translation]

Mr. Sébastien Lemire: [Technical difficulty—Editor] the potential epigenetic consequences for first nations, and hence for health. In light of recent research on environmental factors and the lifestyles of indigenous communities, how should the government approach corporate and organizational responsibility for pollution, the use of dangerous chemicals and other practices likely to cause, for example, harmful epigenetic changes in indigenous individuals and their descendants?

Companies currently bear no responsibility. How can we ensure that companies take responsibility for the quality of the water that they use and discharge into the environment?

[English]

Chief Billy-Joe Tuccaro: By implementing what you just asked me and by being held accountable.... I truly believe that if people are responsible for causing these rates of cancer in my community, especially the rarest forms of cancer.... They say that with some of the cancers that are found in my community here, like the rare bile duct cancer, the chances of getting it are one in 100,000 people. In my community, there probably aren't even 1,000 people, and we have, I would say, about 10 cases of this rare form of cancer already.

People can say that it's just a coincidence and that it just happens. There's something here. I know that. As I said, I'm 47 years old. I lived off the land when I was younger. You were able to drink water from anywhere. You were in a canoe, a boat or anything and you would dip your cup into the water and drink it. Nowadays, you go onto the land and you take more water than you do gas. That tells you something. Not only that, but Health Canada made reference to eating the fish and to limiting it in your diet to once a month, and then, if the ladies were pregnant, to not eat it at all. Those are red flags.

Thank you.

[Translation]

Mr. Sébastien Lemire: I want to touch on one last matter, the First Nations Water Commission.

Do you believe that a commission tasked with considering the issues that may arise from Bill C-61 needs to hear the concerns of first nations? Do you believe that first nations should play an integral role in this commission so that people representing this point of view are around the table?

[English]

Chief Billy-Joe Tuccaro: If the bill is passed, first nations should be on the commission, but again, the commission would just be a corporation. It would just be more corporatization of first nations. Again, if first nations are to be included, their concerns need to be heard. Again, that's if the bill is passed.

• (1015)

The Chair: Thank you very much.

[Translation]

Thank you, Mr. Lemire.

[English]

With that, we'll go to our last questioner in the second panel and for the day.

Ms. Idlout, you have six minutes.

Ms. Lori Idlout: [Member spoke in Inuktitut, interpreted as follows:]

Thank you, Mr. Chair.

Thank you for explaining a lot of the things that we had questions about. The federal government had policies, and they should have honoured the treaties that they agreed to and followed them.

Did you want to say something to the federal government? I understand that you do not want to see Bill C-61 passed. I want to hear from you any time as an indigenous person. You have a voice that is very important. I would like you to make your final statement so that we can fully understand your concerns, and it will help us also to understand it better.

Chief Billy-Joe Tuccaro: Thank you.

As a final statement, I can say this. People need to really take a good, hard look, if they are going to pass this bill, at the situation we are in, in regard to the other first nations across Canada. We are situated downstream from the oil sands. If the bill is passed and if there are amendments made to it, one thing I can say is this: I beg the province, I beg Canada and I beg all of you to please bring down the thresholds in regard to the different heavy metals that go into the water that comes down from the oil sands.

Right now, the thresholds are at 0.05 parts per million, and anything below that is acceptable. We know this for a fact. A lot of what's happening in this region is cumulative effects. Just recently, we were lobbying the government to start to test for naphthenic acids. We were successful in that, and now it is, but, again, the threshold is 0.05 parts per million. It's a hard thing that I have to beg for my people to have a fighting chance.

I'm going to say this today. There was a study done by Transport Canada in 2017 of the wharf area, also known as "big dock". The study goes back to 2014 or 2013 in regard to that being a contaminated site. The government had this information, and it did not disclose it to my people. It was only brought to light to us about two months ago. I've had kids swimming in there, and now you guys want to off-load the responsibility to us. A lot of my people live in that area. This is very concerning, and this is going to be news. This is what I'm saying.

This is the reason why we are in total opposition to Bill C-61. It's because we give one inch on anything, and you take the land. Now

we're finding out something seven years later, after the fact. Do you see why we are so resistant and hesitant for any bills that come in this area? Even if it works for the rest of Canada, it does not work for us in this area.

I'm saying this as the chief of Mikisew Cree First Nation. Please reconsider this, because you guys have to understand where we're situated. It's not only us; it's the other nations who live in the community, but we are a majority in this community.

Thank you.

• (1020)

The Chair: Thank you very much, Ms. Idlout.

That concludes the time for questioning in the second panel.

I want to sincerely thank Chief Tuccaro for joining our committee today and for his testimony. It will be invaluable in the work this committee is doing as part of the study of this legislation, and we really appreciate your taking the time to share everything with us today.

Chief Billy-Joe Tuccaro: Thank you all, and I appreciate you taking the time to listen to me.

The Chair: With that, we will finish our second panel here.

Being conscious of the time, we won't go into committee business today. We'll have some time on Monday to do so and to go through the work plan in more detail. We have witnesses who have already been submitted. We will continue to work through those. We can work through the rest of the work plan at that time, as we have some time in the schedule.

With that, is it the will of the committee to adjourn?

Some hon. members: Agreed.

The Chair: The meeting is adjourned.

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