



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

44th PARLIAMENT, 1st SESSION

Standing Committee on Indigenous and Northern Affairs

EVIDENCE

NUMBER 121

Thursday, October 3, 2024

Chair: Mr. Patrick Weiler



Standing Committee on Indigenous and Northern Affairs

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• (0820)

[English]

The Vice-Chair (Mr. Jamie Schmale (Haliburton—Kawartha Lakes—Brock, CPC)): Good morning. I call this meeting to order.

Welcome to meeting number 121 of the House of Commons Standing Committee on Indigenous and Northern Affairs. We recognize that we meet on the unceded territory of the Algonquin Anishinabe peoples.

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 nation lands.

I'd like to welcome our witnesses for the first panel. From the Chiefs Steering Committee on Technical Services, we have Chief Rupert Meneen of the Tallcree First Nation; Chief Sheldon Sunshine of the Sturgeon Lake Cree Nation; Vaughn Paul, chief executive officer of the First Nations Technical Services Advisory Group; and Norma Large, policy adviser, First Nations Technical Services Advisory Group. We also have, from the Chippewas of the Thames First Nation, Chief Joe Miskokomon. By video conference from the Macdonald-Laurier Institute, we have Dr. Heather Exner-Pirot, director of natural resources, energy and environment. As well, we have Chief Taralee Beady, who is online.

It's great to see our witnesses.

We will start with opening comments. I don't know who from the Chiefs Steering Committee on Technical Services wants to go first, but we will kick...

Is there a problem?

The Clerk of the Committee (Mr. Thomas Bigelow): The screen behind us is not on.

The Vice-Chair (Mr. Jamie Schmale): Okay.

Hang on for two seconds.

• (0820)

(Pause)

• (0820)

The Vice-Chair (Mr. Jamie Schmale): It just looks like the screens are off behind me. Ignore that. The screens are on. We are doing the television feed.

Who would like to go first?

We have five minutes for the opening statements.

Chief Sheldon Sunshine (Sturgeon Lake Cree Nation, Chiefs Steering Committee on Technical Services): Thank you, Chair.

Tansi, honourable members of Parliament. On behalf of our chiefs committee, thank you for this opportunity to speak to Bill C-61.

Before I begin, I would like to acknowledge that I am speaking on the unceded land of the Algonquin people.

With that, I will get right to it.

For the past year or so, we in the appointed Chiefs Steering Committee on Technical Services regarding water and water management in Alberta have monitored the progress of Bill C-61. As a committee, we have watched this bill progress from afar, since we were not engaged in the process, regrettably and unacceptably—not until the bill was already written. This bill does not meet our needs or expectations. We know we are not alone in this position. We have many regional issues in Alberta respecting water that need to be addressed and incorporated into this legislation. Without meaningful inclusion, this bill will fail first nation governments and peoples.

We must state here on the record that the Assembly of First Nations is being used to manufacture consent. This must not be allowed. At the recent AFN July session, a resolution to support Bill C-61 garnered the support of only 100 out of 600-plus first nations, yet Canada has asserted a position of strong engagement and support from first nations throughout the development of the bill, at every opportunity. This is false. Canada continues to hide behind the AFN to manufacture consent to pursue the very things we want to talk about with you today.

Please note that our committee will be submitting a substantive assessment of our concerns, which will include additional issues about specific aspects of the proposed legislation. We understand that the line-by-line work is still to come through this committee.

Today I want to spend some time expanding on our deep concerns over how Bill C-61 ignores unfinished business related to treaties. Bill C-61 does not meaningfully consider or incorporate our inherent and treaty rights to water in its framework for addressing water and water management issues. The treaty relationship is being ignored in this law. This is unacceptable to us as treaty nations.

Treaty 6, Treaty 7 and Treaty 8 nations have inherent jurisdiction over water within their territories. We hold sacred, spiritual and cultural connections to water. The health and protection of water for the current and future generations are paramount to our well-being. Canada cannot continue to fail our peoples with this, but if the bill stays in its present form, it will. There is a slight reference in this bill to self-governing and modern-day treaty agreements, but not a single reference to our numbered treaties. We want to know why.

This goes to an issue that appears to be the elephant in the room: Canada, through this legislation, is continuing to deny our inherent and treaty rights to water. This is a fundamental flaw in the legislation as currently drafted. Canada is boastful about protection zones—concepts set out in this legislation. In theory, this can hopefully be an improvement over the status quo, but only—and I emphasize “only”—if you have a willing government partner. This is a bit of fantasyland thinking. There is nothing binding in this concept. It has no legal obligations and no teeth.

What happens if you don't have a willing government partner? First nations in the Alberta region have been left out of significant water planning initiatives in the province of Alberta, and Bill C-61 and the addition of protection zones provide no assurance of this changing. This is our current reality in Alberta, which, as you have been told by our colleague leaders from Treaty 7, continues to assert that it owns all water in what is called the province of Alberta. We are here today to remind parliamentarians that Alberta is an incorporated entity that has no sovereignty. In fact, it was created well after our treaties were made in 1876, 1877 and 1899. At no point in time did we cede or surrender our inherent rights and territories, and this includes over water.

What has happened over time has been a gradual and complete interference in our way of life. Successive governments in Canada, whether Liberal or Conservative, continue to disrespect and dishonour our treaty rights and make a mockery of our treaty relationship. We are asking you to reconsider this. If you don't, realize that you will be complicit in the continuation of the situation.

• (0825)

What is at stake here is the honour of the Crown. We expect, as Canada's own UN declaration action plan states, that it will give its good-faith dealings under the treaties.

With that, I will end and take questions.

The Vice-Chair (Mr. Jamie Schmale): Thank you very much, Chief. Actually, that's perfectly on time.

Next up, we have Chief Joe Miskokomon.

Chief Joe Miskokomon (Chippewas of The Thames First Nation): Thank you very much, Mr. Chairman.

My name is Chief Joe Miskokomon. I come from the Chippewas of the Thames First Nation. I'd also like to introduce a councillor of ours and a youth representative, Kingson Huff.

I wish to acknowledge, first of all, that we are on the land and territory of the Algonquins of the Anishinabe. I also wish to acknowledge that our ancestors and our natural life, lands and waterways exist here. I also wish to acknowledge the government and the representatives at this table for undertaking this arduous task towards clean, safe drinking water and infrastructure for first nations.

I'd like to begin my conversation by first of all supporting the delegation from the Chiefs of Ontario and their representation in terms of the critical need to advance this issue in a way that has sustainable funding. I want to delve into funding for a bit.

There are actually no new suggestions for turning jurisdiction over to first nations in order to create economic modelling so that, as either individuals or collectives, we'll be able to design our own economic models that would be reasonable and sustainable within a local geographical area. I think it's important to empower not only the proposed water commission but also first nations in not only recognizing but also promoting ways to create sustainable water solutions within their regions.

It's no longer good enough for ISC to simply come to the table and say, “Because you're close to the city of London, you should be able to connect to the Huron pipeline. It's more affordable.” In fact, we have gone through 20 years of looking for solutions to solve the water problem at Chippewa. All that has happened is that we've had to do study after study for some 20 years. At this point, when the government comes to us and says, “Well, you can connect to the municipal pipeline,” no one even knows whether that pipeline can sustain the growth of the regional economy within the city of London. No one has done that study. We are one of the fastest-growing regions in Canada, with proposed high-speed rail coming in the near future. Growth has been exponential within the city of London.

Let me give you an example of how, in fact, some of that growth has impacted us. We're monitoring the Thames River or the Deshkan Ziibi that flows past our community. Seven million litres of partially treated or raw sewage have overflowed into that river over the past five years.

Let's put that into perspective, ladies and gentlemen. That is equivalent to 537 Olympic-sized swimming pools. The impact on that river.... We can no longer get sustenance from that river. It is far too polluted, regardless of whether or not it's within the environmental guidelines of Ontario. There is a cumulative effect in that river. The amount of damage ecologically and environmentally that has taken place over my lifetime is pronounced, to say the least. That is where one of our major sources of water comes from—the aquifer of that river.

- (0830)

We have band-aid solutions to water filtration systems. We have a 35-year-old distribution system in the community that is unsustainable. At this point, we're operating at 115% and breaking down almost on a daily basis. When there is a power surge or outage, the system goes down. We're on the brink of collapse over any length of time.

While, in fact, this is an opportunity to look at new legislation, I challenge you to say that it is also an opportunity for you to look at new possibilities for first nations. How can we, situated as close as we are to the city of London, partake in the economic growth that is currently going on in our region, when in fact we do not have reliable, sustainable or affordable infrastructure to offer industry?

We are not in a natural resource-based area. We are in a manufacturing and production area that requires labour reform, economic reform and infrastructure reform. The price of land and housing, as we all know, is a critical element. It is going up in our area, and we cannot sustain it.

I would ask you to look at this very critical issue. View it from this point: If there is an economic region that can come forward with new ideas for sustainability, affordability and development, give us the opportunity and back us with a long-term financial solution. We're not coming here for upfront money. We're coming here for brokerage money in order to invest in our communities so that we can invest in the economy and, therefore, coordinate and collaborate with the municipalities around us on that economic and sustainable growth.

I thank you very much, Chairman, for your time.

The Vice-Chair (Mr. Jamie Schmale): Thank you very much, Chief, for those words.

Next up is Dr. Heather Exner-Pirot from the Macdonald-Laurier Institute.

You have five minutes.

Dr. Heather Exner-Pirot (Director, Energy, Natural Resources and Environment, Macdonald-Laurier Institute): Thank you, Chair and members of the committee, for hearing my testimony.

My interest here is not to question the rights of indigenous peoples to clean drinking water or the jurisdiction that first nations have over water on reserve. Like almost all Canadians, I find the lack of access to clean water experienced in many of our indigenous and northern communities to be a source of embarrassment. I understand it is a complex technical and political issue, and I applaud any good-faith efforts to address it.

My interest, rather, is as a policy analyst with expertise in resource development and indigenous affairs. While I applaud the motivation behind this legislation, it is poorly drafted. The bill uses broad language and is ambiguous in its interpretation and application. If left unimproved, it will create unnecessary uncertainty and likely conflict for first nations, landowners, industry stakeholders and other levels of government. It will be left to the courts, at great public and private expense, to try to interpret what is intended in the legislation. This is not in the best interest of either first nations or Canadians in general.

I will endeavour to be more specific.

First, many key concepts are underdefined or ill defined in the bill. This circularity is best illustrated in the definition of “protection zone”. In the definition section, the bill states that “protection zone has the meaning assigned by regulations made under subsection 21(1)”, but subsection 21(1) says, “The Minister must make regulations defining 'protection zone' for the purposes of this Act.” Evidently, there is not, as of yet, a definition of “protection zone”. This seems backwards and unhelpful, especially considering the affirmations made about first nations jurisdiction over protection zones and their prominence in the text.

Similarly, the bill uses the terms “adjacent” and “source water” without defining them, though they could be interpreted as meaning a lot of different things and have very important connotations in the bill.

It consistently uses the term “First Nation lands”, which is ill defined in Canadian law, instead of using terms that are well defined. To me, there's a world of difference between “reserves” or “Lands reserved for the Indians”—as described in class 24 of section 91 of the Constitution Act, and which the definition section refers to—and “First Nation lands”. The latter is often used interchangeably with “first nations territories”, which is often understood to mean most of Canada, barring Inuit lands. The spirit and intent of a term such as “First Nation lands” creates expectations that I don't believe the government has any intention of meeting and, in the case of conflict with other levels of jurisdiction, any authority to meet. I think it's better to be specific throughout.

Other areas of uncertainty are as follows.

First, the bill provides for a first nations law to prevail “to the extent of any inconsistency or conflict, over a provision of an Act of Parliament”, but it does not say what happens if two or more first nation laws conflict with each other.

Second, the bill provides that “The quantity of water available on the First Nation lands of a First Nation must meet the drinking, cooking, sanitation, hygiene, safety, fire protection and emergency management needs”, but it does not say what happens if the water available isn’t adequate.

Third, it commits the Government of Canada to taking “traditional knowledge into account in all decision making regarding water services on First Nation lands, including with respect to measures related to water services on First Nation lands that can mitigate climate change”. It’s not at all clear what measures this could be referring to—how water services could either exacerbate or mitigate climate change.

I won’t further belabour the ambiguous drafting of the bill, and I will submit my questions to the committee in written form so they are easier to respond to. I’m not a lawyer, and I expect the government has lawyers it can ask to tighten up the language.

However, I want to finish by making this point: There is widespread consensus, even from this government, that we need to reduce regulatory barriers and improve permitting certainty in order to get things built in this country. We need major projects and infrastructure simply to maintain our quality of life—things that most Canadians take for granted but that are starting to be compromised—as well as basic infrastructure and development that many indigenous communities are still waiting to enjoy.

However, our lawmakers continue to pass legislation and advance policies that further add to this uncertainty, keep investment at bay and ensure the courts will need to be involved at some point in the future, at great time and expense. Poorly drafted legislation does not benefit first nations, but it does apply costs to all Canadians.

I support many of the tools introduced in this bill to ensure clean water on reserve, including expanded jurisdiction, higher standards and more funding, but I would respectfully request that this committee apply its talents to ensure this bill is clear, constructive and implementable from day one.

Thank you for your attention.

• (0835)

The Vice-Chair (Mr. Jamie Schmale): Thank you very much for your testimony.

Next up, for five minutes, we have Chief Taralee Beardy online.

Chief Taralee Beardy (Tataskweyak Cree Nation): Good morning.

I’m Taralee Beardy. I come from Tataskweyak Cree Nation in Split Lake, Manitoba. We live in a community that is 900 kilometres north of Winnipeg, Manitoba. We have about 2,500 residents. Our community lies on the banks of Split Lake, which is fed by Manitoba’s two largest rivers, the Nelson River and—

The Vice-Chair (Mr. Jamie Schmale): Chief Beardy, I’m sorry to interrupt.

The interpreters are having a tough time hearing you. Do you mind moving your microphone?

Chief Taralee Beardy: Okay.

The Vice-Chair (Mr. Jamie Schmale): Perfect. Let’s try that.

Chief Taralee Beardy: I come from the community of Split Lake, which is 900 kilometres north of Winnipeg, Manitoba. We have about 2,500 residents. Our community lies on the banks of Split Lake, which is fed by Manitoba’s two largest rivers—the Nelson River and the Churchill River.

These rivers have expansive watersheds that include Lake Winnipeg and extend west to the Rockies and east to northern Ontario, including the English River system, which is polluted by mercury. So many pollutants in these systems will find their way to Split Lake.

For centuries, the water in Split Lake, the Nelson River and the Churchill River was the lifeblood of our people. It contained all the resources we needed—water for drinking, fish and wildlife for food, and medicine plants.

Fish was one of the mainstays—

• (0840)

[*Translation*]

Mr. Sébastien Lemire (Abitibi—Témiscamingue, BQ): Mr. Chair, I apologize for interrupting the witness, but there isn’t any French interpretation right now.

[*English*]

Chief Taralee Beardy: —of our diets, present at every meal.

However, starting in the 1960s—

The Vice-Chair (Mr. Jamie Schmale): Chief, I’m sorry to interrupt you again.

We’re just having a tough time hearing you.

Chief Taralee Beardy: Okay.

The Vice-Chair (Mr. Jamie Schmale): Maybe we can suspend for a couple of minutes while we do another sound check with you, Chief Beardy.

We’ll suspend momentarily.

• (0840)

(Pause)

• (0840)

The Vice-Chair (Mr. Jamie Schmale): All right, we call the meeting back to order.

We have the technical issues figured out.

Chief Beardy, we apologize to ask you to do this, but do you mind starting from the top of your remarks?

Chief Taralee Beardy: Okay.

The Vice-Chair (Mr. Jamie Schmale): Thank you.

We'll start the five minutes over, and the time is yours.

Chief Taralee Beardy: Good morning. *Tansi.*

My name is Taralee Beardy. I'm the chief of the Tataskweyak Cree Nation. I come from the community of Split Lake, which is 900 kilometres north of Winnipeg, Manitoba. We have about 2,500 residents on reserve.

Our community lies on the banks of Split Lake, which is fed by Manitoba's two largest rivers: Nelson River and Churchill River. These rivers have expansive watersheds that include Lake Winnipeg and extend west to the Rockies and east to northern Ontario, including the English River system, which is polluted by mercury. So many pollutants in those systems will find their way to Split Lake.

For centuries, the water in Split Lake, Nelson River and Churchill River was the lifeblood of our people. It contained all the resources we needed. It had water for drinking, fish and wildlife for food, and medicine plants. Fish was once a mainstay of our diets and present in every meal, but starting in the 1960s, our water changed. Where we once had perfect, clean drinking water right in front of our community, our water became murky and dirty. Our lake was flooded. River banks eroded and our beaches disappeared because of the artificial regulation of the lake by Manitoba Hydro.

Our elders noticed that the water quality had changed, and they didn't understand why. It was because Manitoba Hydro had built a hydro dam at Kelsey without our knowledge or consent.

This caused a lot of health impacts to our people. People have eczema, gastrointestinal upsets and cancers. There's a lot of diabetes and kidney and neuromuscular ailments. *H. pylori* was common among our people. A lot of people had stomach ulcers. We didn't allow our children to swim in the lakes anymore because they were getting skin rashes and sores.

Our people no longer fish in Split Lake. They have to travel further north to the northern lakes to get some fish for our elders and community members. There's an absence of country foods from our diets. We're depriving people of recreational opportunities like just playing in the water, allowing the kids to swim and boating. Things like that have been taken away from our people.

The other concern we have is the infrastructure. The infrastructure is not there. Of all the homes in our Split Lake community, 138 have water tanks. We need funding for more water infrastructure. We have about four neighbourhoods that don't have access to fire protection. If a fire breaks out, we don't have any fire hydrants. It's operated by water truck, and oftentimes, our water trucks are down. We then have to hire a water truck from Thompson, Manitoba, to come and service our community. We have 138 houses on water tanks, and even this is an added cost. We have to pay for a service truck because the infrastructure in our community is not good.

I feel that Canada needs to do better, especially when it comes to water. Life is water. Water is life. Everything we depend on has to do with water.

As you are aware, in 2019, Split Lake had a lawsuit against Canada because of that. We had to fight for our right for clean drinking water, and to this day, we still do not have clean drinking water. I'm very grateful that we're getting a new water treatment plant to another source from another lake, Assean Lake. However, we're still drinking bottled water.

• (0845)

There are times when we have to get bottled water delivered to our community. There are times when we run out of water, because there's not enough to go around. We have to provide water to the schools, the offices and the health centre. For years, the nursing station always brought their own bottled drinking water, but not for our community. Thankfully, we now have bottled drinking water, because our current water treatment plant can't clean the water to make it safe enough for us to cook or bathe our children. Our children are still having skin issues to this day.

I want to thank you for giving me this opportunity to express the issues we are facing in our community of Split Lake.

Again, I want to say that our community is located north of the 56th parallel, and we're west of 96°, so we're up in northern Manitoba. It's quite remote. Luckily, we have a road, but there are other communities that do not, such as Shamattawa. They're located more northerly. We're supporting Shamattawa as well, because they still do not have clean drinking water at this time.

Thank you.

• (0850)

The Vice-Chair (Mr. Jamie Schmale): Thank you, Chief, for those comments. We'll have more time to expand on what was said during the rounds of questioning.

We will start with the first round for six minutes.

Mr. Zimmer.

Mr. Bob Zimmer (Prince George—Peace River—Northern Rockies, CPC): Thank you, Mr. Chair.

Thanks to our witnesses for appearing.

My questions will be for Dr. Exner-Pirot.

Does the lack of northern water infrastructure pose a risk to our Arctic sovereignty? I know that you have expertise in the north. I'm going to quote from your article entitled "NORAD Modernization and the North—A Primer". Some will ask how this relates to water. It very much does. The bill we're talking about says, "An Act respecting water, source water, drinking water, wastewater and related infrastructure on First Nation lands".

Your article says:

The base infrastructure grid—the network of transportation, communication, power, and water lines that southerners take for granted—does not extend into Canada's Arctic. Many Inuit [and indigenous] communities, small by southern standards, are entirely off the grid and not connected to the rest of Canada by road, rail, fibre optic cable, power line, or water supply.

My first question is this: How important are water and related infrastructure to our Arctic sovereignty and security?

Dr. Heather Exner-Pirot: Thanks. That's a good question.

There are a lot of similarities between northern communities—which are often indigenous communities—and military bases in terms of their infrastructure needs. They need basic infrastructure to have people there and to operate. In terms of some of the technical solutions we might want to be looking at for first nation communities, these would be similar to some of the technical solutions we want to find for military bases.

On finding smarter ways to provide good-quality water in all of these locations that are off grid and remote.... There are many reasons and layers in Canada in terms of why we want to find those. There are problems similar to base infrastructure, which are what communities face.

Mr. Bob Zimmer: This leads to my next question.

The term for it is “dual-use infrastructure” or “dual-purpose infrastructure”. I would see it—as you see it—as a possible solution to getting water-related infrastructure built in the Arctic and in these indigenous communities.

Your article refers to the Standing Committee on National Defence and its 2023 study called “A Secure and Sovereign Arctic”.

That study says:

That the Government of Canada, when and where possible, in collaboration with territorial and Indigenous governments, as well as Indigenous development corporations, ensure that military infrastructure in our Arctic include dual-use benefits to close the infrastructure deficit in Arctic communities.

Your article goes on:

At a visit to Yellowknife in the days following the [Defence Policy Update] announcement in April 2024, Northern Affairs Minister Dan Vandal further affirmed there would be “significant opportunities to invest in multi-use infrastructure” to support the military's operations in the North. But as the CBC pithily pointed out, “Vandal did not explain what those opportunities would involve.”

The DPU does not address the recommendations and exhortations of parliamentarians to develop multi-purpose northern infrastructure—

These are key words here:

—in any concrete fashion

Again, there are more announcements but little on outcomes.

This is from the article:

One significant contributor to past failures has been a lack of coherence between political and departmental goals. However, in the case of multi-purpose infrastructure, there is reason to believe that a common view that supports both the needs of DND and the goals of Parliament is possible.

Again, with all of these endless announcements but little in terms of outcomes, my last question to you is this: With such real and present threats to Arctic sovereignty, are you confident the current government will actually get critical water infrastructure built?

Dr. Heather Exner-Pirot: I'm not confident it will happen in the short term. As all of the chiefs will know, we've been talking about this issue for decades.

I understand it's also a difficult technical question. This is where something like the Department of National Defence may have the money and the research and development opportunities to produce some technical solutions to the problems that they have will have in the Arctic—in the north—which all communities also face.

Trying to be smarter—not just pouring money into the situation, but actually finding some technical solutions—is an approach we should be exploring more seriously. We don't see a lot of innovation in northern, remote infrastructure. We're usually just trying to apply southern solutions and southern infrastructure to situations where they're just not comparable.

• (0855)

Mr. Bob Zimmer: Thanks, Dr. Exner-Pirot.

I'll pass the rest of my time to Eric Melillo.

Mr. Eric Melillo (Kenora, CPC): Thank you, Mr. Zimmer.

Thank you, Mr. Chair, for allowing me to take some time here.

I just want to come back to the Chiefs Steering Committee on Technical Services. In the opening remarks, it was mentioned how there are few first nations in favour of this, relative to the national picture.

I believe Chief Sunshine used the term “manufacture consent”. It reminds me of a press release put out by the committee shortly after this bill was released. In that, Chief Meneen characterized the bill as “dump-and-run legislation”.

Chief Meneen, can you expand on the opening comments from Chief Sunshine, about why you used the term “dump-and-run legislation” and how the consultation process has played out? Where has that come up short?

Chief Rupert Meneen (Tallcree First Nation, Chiefs Steering Committee on Technical Services): The “dump-and-run”, in my opinion, is the government trying to give us this old jalopy—as I was going to say in my speech but obviously didn't have a chance to. It's basically a broken-down, old vehicle the government is trying to give us to take over. The government is saying, “This is yours. Take it and run with it.”

I personally don't want that old jalopy in my community. I would rather have a brand-new water system and water treatment plant. Where the Canadian standards are is where I want to be. I don't want to be down there taking it over when I should be up here, on an equal level with everybody else in all of the communities all over Canada.

That is what we want at the end of the day.

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

Chair, how's my time?

The Vice-Chair (Mr. Jamie Schmale): You are pretty much done.

Mr. Eric Melillo: Thank you very much.

The Vice-Chair (Mr. Jamie Schmale): Mrs. Atwin, you have six minutes. We'll go over to the Liberals.

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

Thank you to our witnesses for being with us this morning, particularly the chiefs. I know how busy you are and how your time is very precious in your communities.

I'm going to take a couple of minutes to quickly wish my nephew a very happy birthday today. I hope he'll see this clip sometime. I don't know if he's up this early and watching the committee, but happy birthday, Robbie.

I want to start by saying we're absolutely committed. I feel this bill really affirms the government's responsibilities, including that fiduciary responsibility and being there as a partner should there be litigation in the future. It's about raising those standards and ensuring that communities have access to those excellent services. It's not just the bare minimum, but again, going above and beyond what I think we want to see in the rest of the country as well. I really feel that's what we're trying to achieve with this bill.

I'd love to start with Chief Miskokomon. Can you talk us through some of the challenges you've experienced so far when it comes to lifting the long-term water advisories in your community? Is it a straightforward process? What are some of the challenges you've been experiencing?

Chief Joe Miskokomon: Could you say that again? I'm sorry. I didn't hear you.

Mrs. Jenica Atwin: I speak very fast. I'm so sorry.

Can you walk us through some of the challenges you've experienced in lifting the boil water advisories in your community? Is it a straightforward process? What does it look like?

Chief Joe Miskokomon: First of all, it's difficult to get a boil water advisory moving in a community. After that, the challenges are technical and financial. There are also supply chain issues, delivery issues, issues with the elderly and having to meet the special needs of special needs children. There is so much in the emergency plan that needs to get activated all at once when in fact there's a boil water advisory taking place. Not only that, but then there are the technical issues of bringing engineers in and bringing in testing. We don't have our testing base here in the city of London.

If we go back to when the pandemic was happening, we were under a boil water advisory, and we were constantly trying to test our water during this emergency—not only an emergency for us but throughout all of Canada and the world—but that service delivery isn't there. The boil water advisory doesn't come off all at once following the testing. On some days, the water tests “good”, and then, shortly down the road, it falls back down again. Just delivering filters to the water treatment plant when you're at 110% to 115% overworked in that.... I can advise the committee that the one micron filter that is needed to do the final filtration within the system

only lasted two days, and that's at \$400 a filter, so the cost alone is exponentially escalated, trying to get the system back online.

It's not just a matter of having a test. It's all of these progressive things that you need to go through in order to try to bring the system back online and ensure that there is quality there for a period of time. It's also about addressing the immediate needs of the community and of the households, and the liability of what you're doing falls back on chief and council in terms of activating and ensuring that the technical work is being done properly so that we don't harm our community members.

● (0900)

Mrs. Jenica Atwin: Thank you very much for that. That liability piece, we'll be addressing, I think, in the clause-by-clause portion of this as well.

I have such little time. I'm going to try to get to all the witnesses. For the technical committee, I really hear you on the treaty piece specifically, and I know that if we had just respected treaties, we wouldn't even be in this situation right now.

Would you expect that the inherent rights affirmed in clause 6 of this bill fall under the inherent rights the Supreme Court recently upheld in their ruling on Bill C-92 earlier this year?

Ms. Norma Large (Policy Advisor, First Nations Technical Services Advisory Group Inc., Chiefs Steering Committee on Technical Services): Good morning, everyone. Can you just repeat that? It's very hard to hear you on this side. I just wanted to say that.

Mrs. Jenica Atwin: Sure. Regarding inherent rights, would you expect that the inherent rights affirmed in clause 6 of this bill fall under the inherent rights that the Supreme Court recently upheld in their ruling on Bill C-92 earlier this year?

Ms. Norma Large: Thank you for that.

I think that it would be easy to look at it in the way that you're suggesting, in terms of what is contemplated in this bill, but as the chief mentioned, the inherent right to self-determination, which is what was pursued at the Supreme Court, doesn't necessarily reflect the way that we view our inherent right to self-determination. While the Supreme Court is certainly raising the spectre of first nations being able to take over a certain kind of jurisdiction insofar as child and family services, on this bill, we feel like the unfinished business of treaty is really where our inherent right shines. The inherent right is the reason why our nations were able to achieve treaties, so if we were to work through that realm, through the treaty rights that we have or the treaty relationship that we have with the Crown, our inherent rights would be automatically recognized.

The feelings of chiefs in our region lead them to question why we have to work through the Supreme Court of Canada process to achieve something that we already have. If we were to deliver based on that, what we're saying is that there would be recognition already of where we are at with the treaty relationship in the place that people call Alberta, and we remind everyone here that our peoples were here well before there was a province called Alberta. If we were to start from that space, the inherent right would be delivered. However, we're not there, so we continue to have to go through domestic courts to try to achieve it.

The Vice-Chair (Mr. Jamie Schmale): Thank you very much.

I'm sorry, Mrs. Atwin.

Next up is the Bloc Québécois for six minutes.

[Translation]

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

Like many of you, I'm wondering whether Bill C-61 is as robust as people claim. Often, when it comes to keeping promises, particularly concerning indigenous communities and economic reconciliation, there's a sense of complacency. In many cases, we don't walk the talk, as the saying goes. We need to address this issue properly. As a result, I wonder whether Bill C-61 will give us the opportunity to do so.

Chief Miskokomon—

• (0905)

[English]

The Vice-Chair (Mr. Jamie Schmale): I'm sorry, Sébastien. I'm checking in with our witnesses. I see a lot of people with their hands up. I'm not sure if they got the interpretation.

[Translation]

Mr. Sébastien Lemire: [Inaudible—Editor]

[English]

The Vice-Chair (Mr. Jamie Schmale): While we're here, does everyone online have access to the French interpretation?

Okay. I'm just making sure.

Chief Taralee Beardy: I don't.

The Vice-Chair (Mr. Jamie Schmale): The technical team is going to reach out and get you access to that. Chief Beardy, it might be quicker if you look at the bottom of your screen. There should be a globe. If you click that, it should have a link to interpretation. Just hit “English”.

Is it okay? That's awesome.

Go ahead, Mr. Lemire, right from the top.

[Translation]

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

As I was saying, like you, I wonder whether Bill C-61 is as robust as people claim. The Canadian government often shows a certain level of complacency. As the saying goes, we don't always walk the talk.

To ensure true economic reconciliation, we must also address the real issues facing the first nations and the impact of certain matters.

For example, Chief Miskokomon, what do you think about the fact that Bill C-61 doesn't address natural resource management or energy transition decisions?

Do you want to be involved in the decision-making process and be part of the solution?

How does this affect your water and land management rights?

[English]

Chief Joe Miskokomon: In its current state, I don't believe it would adequately address other issues associated with first nations.

We are negotiating land claims within the southwest. We've already received authority to buy back land. That amounts to over 8,000 acres. Take the confined area of southwestern Ontario. That's a substantial piece of property. When we try to do additions to reserves, it takes over 20 years.

We've currently been in negotiations and discussions with ISC for the past 20 years to increase and improve the quality of water. These additions, now, will remain agricultural to a large extent. In fact, we're in the industrial heartland. Some of the properties we've obtained are within 10 kilometres of the 401 and 402 interchange, where a tremendous amount of industrial traffic goes back and forth. We have a Volkswagen plant in St. Thomas, 20 kilometres away from us.

There is going to be a whole series of subsidiary-type industries within that region. If we can't put forward the three main and important points of reliability, sustainability and affordability, we will never achieve economic reconciliation the way the legislation is currently drafted. It needs to have a secure and flexible way of creating first nations financing that controls not only the system but also the financial mechanism within which we must operate and compete with these other municipal jurisdictions.

• (0910)

[Translation]

Mr. Sébastien Lemire: Would you like to see amendments to other elements or specific wording in the bill, so that we can be part of this reconciliation and give you real power of self-determination?

[English]

Chief Joe Miskokomon: Flexibility also has to be given to the commission. I think a lot of the authority needs to be taken away from ISC and placed in the hands of first nations and within our own models, so we can exercise our own jurisdiction and develop our own mechanisms without the burden of having to constantly justify what we're doing back to other offices, which may have little, if any, contact with our region.

[Translation]

Mr. Sébastien Lemire: I wonder about the fact that there currently doesn't seem to be a real system of whistle-blowers or an advocate from the first nations to blow the whistle. I'm thinking in particular about the impact of the lack of access to quality water. People are talking about setting up a commission. This mechanism could help resolve these issues, or at least make them heard.

What do you think of this solution? Should the first nations be part of the solution and present at the table?

[English]

Chief Joe Miskokomon: Absolutely. There's no question in my mind that they shouldn't just be at the table. They should be driving the table for solutions. You can't have reconciliation when you have a top-down approach for solutions. If we're going to achieve any form of reconciliation.... The problem is that policy frameworks are established and then imposed, as my friends have said to the committee. We don't need the imposition. We need the collaboration. We don't need the confrontation. We need the accommodation.

I think it's very important that we start from an honest basis. We are the third government of Canada. We have constitutionally protected rights. It's now time that you, as parliamentarians, exercise your responsibility in the transfer of those constitutional rights to us.

[Translation]

Mr. Sébastien Lemire: *Meegwetch.*

[English]

The Vice-Chair (Mr. Jamie Schmale): You're a touch over, but our meeting time is drawing to an end so I have to go to Ms. Ashton for six minutes.

Ms. Niki Ashton (Churchill—Keewatinook Aski, NDP): Thank you very much.

I'm pleased to be back at the INAN committee to discuss Bill C-61. However, it's not lost on me that next week, in Ottawa, a team of Liberal government-hired lawyers will be sitting in a courtroom fighting 59 first nations, including the Shamattawa First Nation here in my riding, on the very issue of clean drinking water.

It's very important that we are clear there's hypocrisy in the very fact that first nations here in our region—like Shamattawa, the TCN and others—have suffered under long-term boil water advisories. For years and decades, they have fought for access to clean drinking water and have had to pursue legal action against Canada to be able to realize that very fundamental right.

I also think it's hypocritical that the Liberals keep pointing to Bill C-61 as the be-all and end-all while they fight first nations like Shamattawa in the Supreme Court, which we will be seeing next week. Shamattawa and other first nations have asked to simply work with the federal government in real terms to be able to deliver clean drinking water for their first nations. Instead of working with them and instead of collaborating with them, the federal government has chosen to fight them at the Supreme Court.

That's something I think is shameful for Canada in the year 2024. It's shameful in a country as wealthy as ours. Any Canadian would

be shocked to know that our basic human right of access to clean drinking water is not being made available to first nations. Instead of working with them to find solutions, the federal government is choosing to fight them in court.

I want to direct my first question to Chief Beardy of Tataskweyak Cree Nation here in our region.

Chief Beardy, the Tataskweyak Cree Nation is no stranger to fighting this federal government. Your community, along with the Neskantaga First Nation and Curve Lake First Nation, took on the Liberal government and won. In fact, your community took your fight all the way to the United Nations, which was something I was proud to support.

In your statement, you spoke of how profoundly the government has failed your community and how the water in your community made and continues to make people sick. When ISC officials came to TCN and Split Lake, they initially denied that the water was unsafe. They refused to test for the specific contaminants that were harming your members. At the time, they claimed that your water continued to meet approved guidelines, and that was that. This is typical of a government that shows more respect for guidelines than it does for first nations.

It got so bad that TCN was forced to hire its own analysts to convince the federal government to act. It shouldn't take that much effort.

Three years ago, the Auditor General pointed to the various ways the federal government was failing TCN and first nations on clean drinking water. There was a lack of funding to retain staff. The funding formula to train people at water treatment plants hadn't been updated in over 15 years. There was a consistent refusal to update the list of contaminants.

We hear now that a new water treatment plant is in the works, but you've pointed to the ongoing lack of clean drinking water. Have you noticed a change in the last three years since the Auditor General released this information, when it comes to access to clean drinking water in your first nation?

● (0915)

Chief Taralee Beardy: We're still using our old water treatment plant. It can't filter or clean the water as it should, so we're still under a boil water advisory. Nothing has changed since then. We still continue to not have clean drinking water straight from the taps. We have to have bottled water trucked in on a weekly basis. We still have ongoing issues with our water quality to this day.

Ms. Niki Ashton: Thank you. It's terrible to hear that.

I want to acknowledge that the TCN is also part of the court case that will be at the Supreme Court next week, along with the Shamattawa First Nation and 58 other first nations. In your current case over the Liberal government's failure to provide clean drinking water to first nations, we know that government lawyers are arguing that first nations don't have an inherent right to clean drinking water. They're also arguing that, when ministers in this government say things like, "The lack of clean drinking water for first nations is unacceptable," it's just, as one lawyer put it to me, "political theatre and not something that should be taken seriously."

When it comes to commitments made by ministers in an election campaign, in Parliament or in press conferences to deliver clean drinking water, government lawyers are arguing they are not actual commitments to first nations.

Based on your experience fighting the federal government in court on clean drinking water, do you take its commitments to deliver clean drinking water to all first nations seriously, given what the TCN has gone through?

Chief Taralee Beardy: I really hope they do. It's very essential for our health and wellness. We signed treaties that haven't been honoured, so I'm hoping this government makes an effort to help our first nations, especially in remote locations like Split Lake, Shamattawa and other communities that are affected, because our people are getting sick.

We really need them to step up and honour the treaties. They said they would help our people, which is not happening to this day. I agree with what the chief said. We should be at the top, leading on Bill C-61.

• (0920)

Ms. Niki Ashton: Yes.

The Vice-Chair (Mr. Jamie Schmale): Ms. Ashton, unfortunately we are out of time in this round of questioning.

Ms. Niki Ashton: Thank you.

The Vice-Chair (Mr. Jamie Schmale): Unfortunately, we have gone over time in this meeting, although—

[*Translation*]

Mr. Sébastien Lemire: Mr. Chair, I think that you're about to wrap up the first part of the committee meeting. However, I would like to make a somewhat unusual request. Since there obviously won't be a second round of questions, could we ask a witness to stay for the second hour? Can we ask for an exceptional procedure?

[*English*]

The Vice-Chair (Mr. Jamie Schmale): I think it's up to the committee, and I serve you.

[*Translation*]

Mr. Sébastien Lemire: I want to know whether Ms. Exner-Pirot can stay with us for the second hour of the meeting. I found her testimony particularly compelling. I would have liked to ask her some questions. However, I was unable to do so because we didn't have a second round.

[*English*]

Dr. Heather Exner-Pirot: I'm happy to stay.

The Vice-Chair (Mr. Jamie Schmale): Anything is up to the committee in terms of what they want to do.

I'm just doing the time. We're going to have a few minutes to swap everyone out. That will take us, probably, to 9:30. We have three witnesses. That's 15 minutes of opening statements. We're supposed to end at 10:15.

I leave it to the powers of the committee. We can....

Mr. Battiste.

Mr. Jaime Battiste (Sydney—Victoria, Lib.): [*Technical difficulty—Editor*] with his request because he—

The Vice-Chair (Mr. Jamie Schmale): With the doctor staying...?

Mr. Jaime Battiste: Yes. I mean, he wants to ask his question of a certain witness. He didn't get a chance. We can't do another round because of time, but we have another panel of guests. We can't just hold that off.

I'm okay with that.

The Vice-Chair (Mr. Jamie Schmale): Okay.

Ms. Ashton.

Ms. Niki Ashton: Yes, I was just going to say that, while I definitely understand where my colleague is coming from, I would have liked more time with the panellist from our area, who is on the front lines of the fight at the Supreme Court for clean drinking water.

If we're going down this path, I would like to extend that opportunity to Chief Beardy, as well, if she is available.

Chief Taralee Beardy: Yes, I'm available.

The Vice-Chair (Mr. Jamie Schmale): Okay.

First of all, is it the will of the committee and the will of the people?

Chief Beardy and Dr. Exner-Pirot, do your schedules accommodate this?

Dr. Heather Exner-Pirot: Yes. I just have to get my kids off to the bus, but I'll be around.

The Vice-Chair (Mr. Jamie Schmale): Okay. All in favour in the committee...?

Some hon. members: Agreed.

The Vice-Chair (Mr. Jamie Schmale): Thank you to our witnesses. We will suspend very quickly to get our new witnesses in. We appreciate your testimony and look forward to further conversations.

• (0920)

(Pause)

• (0930)

The Vice-Chair (Mr. Jamie Schmale): Welcome back to our second round as we continue this committee meeting.

I would like to now welcome our witnesses for the second panel.

From Neskantaga First Nation, we have Chief Chris Moonias and Darian Baskatawang. From the Okanagan Indian Band, we have Chief Byron Louis and Nathan Surkan. From Onion Lake Cree Nation, we have Chief Henry Lewis.

What we usually do is start off with a five-minute opening round for each of our witnesses.

Is Chief Moonias going to start, or is Darian starting?

Chief, it's all you. You have five minutes.

Chief Chris Moonias (Neskantaga First Nation): Thank you.

My name, for those of you who don't know me, is Chris Moonias, chief of Neskantaga First Nation. If you don't know where Neskantaga is situated, it's 430 kilometres north of Thunder Bay. It's a remote, fly-in community.

Recently, I read a Maclean's article that described me as "large" and "quiet", but it noted that I make "powerful declarations" when I do speak, so I hope my voice resonates here. Maybe it's because I was at Queen's Park last year and got kicked out of there when I shouted no to the ring of fire being proposed for my traditional territory—Neskantaga traditional territory. Hopefully that won't happen here.

Anyway, this time I have Darian Baskatawang here, our lawyer from OKT. He is representing us in our water class actions. Darian is beside me on my right.

Today marks 10,837 consecutive days that we've been under a boil water advisory—the longest in Canada. That's nearly 30 years. Come February 1, it will be 30 years, and we're likely to reach that 30-year mark. This is something that hits close to us. It impacts us deeply as Neskantaga First Nation members. Neskantaga is ground zero for a shameful story in Canada. We're hopeful about amendments related to the human right to water and about the codevelopment of a funding model that exceeds the settlement agreement commitments.

Source water protection is critical for us. The provinces don't want to play ball, threatening our water supply in the name of money and mining. That's why I shouted at Queen's Park. That's why our position is the way it is. It's to defend and protect our environment and water. We asked the province's premier to meet with us. To this day, he hasn't met with Neskantaga.

Our highest priority remains obtaining clean, safe drinking water as we approach 30 years under our boil water advisory. I urge you to remember that real lives are affected by this legislation. Failing to pass it means condemning us and communities like ours to a continued lack of essential and legal potable quality and quantity standards. That's why we launched a class action with Tataskweyak and Curve Lake. We demanded legal changes to recognize the harms caused by the government's inaction and Parliament's failure to do more than say, "may act".

Today, people in Neskantaga suffer from severe eczema, chronic mental health issues and other health crises due to water contamination. We have people from Neskantaga who cannot go home because of the boil water advisory. We have people who are stuck in Thunder Bay because of the boil water advisory. We have people

who are approved to do home dialysis, but they cannot go home because of the boil water advisory.

On January 2, I took my best friend home in a coffin because he couldn't go home. He'd been stuck in Thunder Bay. He couldn't do home dialysis because of the boil water advisory. I have an elder sitting behind me. His wife cannot go home because of the boil water advisory. That's why it deeply affects us.

• (0935)

The settlement we reached represents a new dawn for us. Central to this agreement are key provisions to ensure that our boil water advisory ends and new ones don't arise. That's the main reason we were in that class action. The biggest, most important thing for us is to make sure that we have a standard of water in our communities so that this doesn't happen again to us or any other first nation in Canada.

We need quality and quantity standards for drinking water so that we can cook, do dishes, shower and even wash our babies without worrying about consequences. Those things we cannot even do at home. We're given only 1.5 litres a person to do all of that. Imagine using 1.5 litres to do all that's listed here: clean, do dishes, wash yourself, wash your babies and cook.

On the actual cost for operations, maintenance and infrastructure upgrades, shift the conversation from crisis management to rights recognition. The bill makes progress, and it must ensure funding to meet the needs and standards for quality and quantity of water. It also needs to uphold source water protection, which is essential for our communities.

Parliament hasn't done enough in the past. We need to replace yesterday's "may" with tomorrow's best efforts. We can't afford just "may", which led to three decades of hardship for Neskantaga. We need action. We need protection. We need to make sure that the legislation is there to protect us and make sure it doesn't happen again.

My message from Neskantaga is clear. Pass this bill with the amendment suggested by the first nations advisory committee. We need you to act now.

We don't need perfection. We just need your best efforts. We don't want to start over either. Don't start over. We have something we can work on. Let's move forward.

Meegwetch.

The Vice-Chair (Mr. Jamie Schmale): Thank you very much, Chief.

Chief Louis, I believe you are next. You have five minutes.

• (0940)

Chief Byron Louis (Okanagan Indian Band): Good morning.

My name is Byron Louis. I'm the chief of the Okanagan Indian Band.

First of all, I'm a member of the Syilx Okanagan Nation, which is located in British Columbia. The majority of our people are located in Washington, Idaho and Montana.

We have numerous leased lands. We've been leasing lands for probably the last 120 years. We've been leasing our lands for income and for the benefit of our people. We have a number of communities and reserves. The main reserve is IR#1. It amounts to about 25,000 acres, I believe. We've made numerous purchases of additional lands off reserve, which bring the number close to about 31,000 or 32,000 acres.

We have a number of non-residents based on leasehold interest, other types of...and modular home parks and commercial leases along the Okanagan Lake. Our reserve lands have been able to provide a modest level of support for our communities for quite some time, and that's one of the issues we'd really like to talk about.

One of the issues that must be understood is aboriginal rights. The government always concentrates on the social aspects of an aboriginal right. When you look at ISC policy, it is all about this social aspect, which creates limitations on what exactly is considered a use and benefit to aboriginal peoples, but what must be made clear is that aboriginal rights also include the economic component of a right. When you're looking at formulas or policy, you can't have these policies that address simply one issue, which is the economic component.

As an example, each household under ISC policy has a little over 700 litres per day, yet in the neighbouring communities, each household has anywhere from 2,800 to 3,600 litres per day. When you look at that, it does not provide economic benefit to our people, and I think that needs to be taken into consideration.

We've been without access to clean water to meet our needs. That's without a doubt, and it's been spoken about by others. We're not a remote community, so that is not a reason to have this problem of no access to proper infrastructure, water and waste-water treatment. We have aging and inadequate infrastructure, based on the formula I have described, and inadequate water treatment solutions proposed by ISC.

If we go back to Walkerton and the reasons why that happened in Ontario, you have the same formula for disaster. That type of disaster exists on virtually every reserve across Canada—even ours.

Source water is not protected from agriculture, agriculture runoff, unregulated septic systems and other sources of contamination. Even our most populated reserve, IR#1, has had at least one drinking water advisory on community systems in all of the years since 2004.

Numerous drinking water advisories exist on private systems because, based upon the formula, not all lands actually have sources of potable drinking water. When you're drilling for water, whether or not you'll have contamination all depends on the soils and the conditions of those soils.

We still have many members in the community who have no water services at home or drilled wells by their home. As an example, my father passed away about a year ago when he was 88 years old, and he was hauling water from about the early eighties right up to the time he passed.

We have very high rates of cancer on our reserve. We have had incidents of 90 individuals with cancer, and 30 of them were fatalities. We actually lost these members. Each and every one of them can't be based upon genetics, because in some of the households, you have a husband and wife. In one case, a man's wife came from the Stswecem'c Xgat'tem, which is about 400 kilometres away from us, and both he and his wife died of cancer. He died of throat cancer and she died of brain cancer. An individual less than 300 feet away, downstream from them, also died of cancer.

When you're looking at this, it's much more than just inadequate water and water supplies. The only common denominator out of these 90 people who lived in various locations on our reserve was the water systems.

• (0945)

With these losses, we're talking about people, in a place where we have a very low population, who still retain our traditional nsiłxcən language. When we lose them, it's like losing a library. It's like going downtown or going into Library and Archives Canada and burning a whole section, because that's the equivalent.

Economic development is limited by inadequate water supplies. Again, this gets back to the issue that it is not just the social consideration of an aboriginal right. It's an economic component that is equally important as that social consideration. Ours are the only communities in Canada that are only given social considerations in developing our societies, while every other community in Canada develops based on social and economic considerations. One pays for the other. What this does is it just continues to create that dependence on government largesse, for lack of a better term—and that's all you can describe it as, because it's at the mercy of the government, which has not been friendly to our people.

I think I'm getting close.

The Vice-Chair (Mr. Jamie Schmale): It's over, but I didn't want to cut you off because you had some important things to say. We probably will get to expand on them during the question time.

Next up is Chief Henry Lewis.

Chief Henry Lewis (Onion Lake Cree Nation): First of all, I'm very grateful to sit here today addressing the Senate on such a delicate topic. My name is Okimaw Lewis and I am the chief of Onion Lake Cree Nation. I speak on the unceded, unsurrendered territory of the Anishinabe and Algonquin nations.

We entered into Treaty 6 with the British Crown in 1876, before Alberta or Saskatchewan existed. Our ancestors would not have imagined these new levels of government or the impacts we see now when they entered into treaty. Our treaty guarantees our ability to continue our way of life—we in our canoes and settlers in their ships—without interference. Our treaty is unique. Two provisions are important for the discussion here today: the medicine chest provision and the famine and pestilence provision. These confirm the Crown's continued obligation regarding our health and our protection from starvation and disease.

Our access to a healthy abundance of water is essential. It is tied to those obligations and does not end at the reserve boundary. Our territory extends throughout the entire Treaty 6 area. Our reserve straddles the Saskatchewan-Alberta border, which creates additional challenges for my nation. Onion Lake has approximately 7,000 members and occupies approximately 156,000 acres of territory.

To be clear, we reject Bill C-61 in its entirety.

I will focus my discussion on five issues.

First is the breach of treaty and inherent rights. Water is sacred and essential to everything. Our relationship to water is not granted through federal legislation or agreements with provinces. This bill assumes that our authority over water is only on, inside or under our reserve lands. This bill downloads federal responsibility and liabilities under the treaty in the guise of self-government. It requires us to forgo our rights to source waters.

Second is the flawed consultation process. Several court cases deal with the duty to the Crown when consulting. Onion Lake Cree Nation has protocols outlining consultation and what requirements governments and industry must follow when engaging us through our own process. This has not been followed. Federal representatives from ISC and the DOJ were at this committee on June 12 describing the process that was used. They said they consulted with modern treaty, self-governing first nations and the AFN.

Onion Lake Cree Nation is an independent nation. We are not involved with the corporate body of AFN or any tribal council, nor do they speak on our behalf. AFN and other corporate bodies are not rights holders. They are corporate bodies. That modern treaty and self-government first nations will not be affected by this bill, so it doesn't make sense that they were consulted. Sending an email does not equate to adequate consultation.

Third is the jurisdictional problem. This bill is aspirational. Language like "reliable" and "assist First Nations in achieving the highest attainable standard" in clause 4 is meaningless. We do not need this two-tiered "let's try to do better" system that only transfers liability and responsibility to the nations using terms like "self-government". We see the issue of dumping and contaminants in the water from development. This bill will not compel the province to do anything. Canada already has powers under the Canada Water Act, but it has failed to use them. The proposed commission and lack of details are scary. We are unsure about what authorities the commission will have, and whether it will make decisions related to the discharge of nuclear waste and other effluents in our water bodies and tributaries.

Fourth are the protection zones. The protection zones are also aspirational. They have no teeth, and we are not convinced these zones will be created according to our needs, or in time. They must be adjacent to the reserve. We hunt, fish, trap and gather in our territory. Animals, plants and fish do not stay in the reserve boundary.

● (0950)

These zones require agreements with provinces. They do not compel provinces or ministers to do anything. Protection zones and other legislation have not worked. Nations continually have to take Canada to court or wait 15 or more years for action.

Finally, water is a human right. The UN has recognized that water is at the core of sustainable development and critical to socioeconomic development, energy, food production, healthy ecosystems and human survival. Water is also at the heart of adaptation to climate change. As the population grows, there is an increasing need to balance all the competing commercial demands on water sources so that we have enough for our own needs.

The bill does not recognize that right, nor does it include the World Health Organization's guidelines for water quality. The bill does not guarantee the protections and principles established under article 19 of the United Nations declaration.

The Vice-Chair (Mr. Jamie Schmale): Thank you very much to our witnesses. I appreciate the testimony so far. We are going to be tight on time to end the meeting relatively on time. We will probably go over, but I'll be a little more strict in terms of time for the questioning.

We'll start the first round for six minutes with Mr. Melillo.

Mr. Eric Melillo: Thank you, Mr. Chair.

I want to thank all of the chiefs here for taking part in this important discussion and for the testimony.

Chief Moonias, it's good to see you. I really appreciate what you shared already, and I thank you for sharing the suggested amendments as well. I do appreciate that.

I want to go into one other question around future regulations, and it was just alluded to. Much of this bill is left to future regulations to be determined by the minister. Of course, there's an expectation the minister would consult and co-operate with first nations in making those regulations, but there is the ability for the minister to move forward in defining regulations for things like protection zones, as an example, without the consent of a first nation.

I'll ask the question of Chief Louis, but, Darian, if you want to jump in from a legal perspective, please feel free to share the time as you wish. I want to ask if you have concerns about many of these things being defined in future regulations, potentially without the consent of the first nations impacted.

• (0955)

Mr. Darian Baskatawang (Associate Lawyer, Olthuis Kleer Townshend LLP, Neskantaga First Nation): Thank you, Chief, for appointing me to take this answer.

In our minds, the most important part of what this bill does is set out that the government has to make best efforts on the parts that Chief Louis just mentioned, on standards for quality and quantity. Start with that. If you want to do more, we'll do the rest later, but we don't want to wait another decade for one act to come and another one to go. Let's start with this now. Then, of course, if we want to do more on future regulations, let's consult, but for now we don't want to see the opportunity pass.

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

Chief Louis, Did you want to jump in on that question? It looked like you wanted to.

Chief Byron Louis: Yes. You know, when we're looking at undefined regulations, I think it's very important that first nations are actually considered in there. When you look at the constitutional order under the government, you're talking about section 91, which clearly gives that role to the federal government, but it's a trusteeship role. I think that needs to be clearly understood.

The other component of that, under the British Columbia Terms of Union, under section 13, is that it was very clear in the wording for that, "The charge of the Indians, and the trusteeship and management of the lands reserved for their use and benefit, shall be assumed by the Dominion Government". It is clear that, constitutionally, in British Columbia, when you're coming there, you do not speak to the provincial government. You actually speak to us in terms of any type of issue that will affect us.

I think there needs to be an understanding that there must be the ability to enforce section 81 of the Indian Act, which talks about us being able to pass laws and regulations. It says that we have that authority for health and public safety. You can't be more clear about water and water legislation, but we also need the ability to enforce that. It has been a failure of government all along to not enforce our bylaws.

Mr. Eric Melillo: Thank you very much to both of you for that context. I appreciate it.

I'll come back to Neskantaga. In the opening remarks, Chief, you mentioned an amendment around the codevelopment of funding.

Could you expand more on that and what effect it would have on your nation?

Chief Chris Moonias: I'm having a hard time hearing you.

Mr. Eric Melillo: I'll try to speak a little closer to the microphone.

I just said, Chief, that in your opening remarks, you mentioned a potential amendment around the codevelopment of funding.

Chief Chris Moonias: Yes.

Mr. Eric Melillo: I'm curious if you could speak more to what that would look like and how that would benefit your nation.

Chief Chris Moonias: A lot of the time, when things or legislation is being developed, the indigenous communities don't get a chance to be involved, especially when we're talking about consultation and things like that. One of the chiefs earlier mentioned how it's not just an email. We need to sit down and really take a look at those things that will affect the first nation communities. We don't see that, either federally or provincially. All the times when we're asked to support something, we're not there because we don't have that opportunity.

That would really strengthen the relationship and the things we're trying to do. We need involvement.

Mr. Eric Melillo: Thank you very much for that. I appreciate it.

Darian, I'll ask you to follow up on the previous question around the regulation framework. The language of consulting and co-operating seems very broad. Again, I'm not a legal expert.

In your view, what would that interpretation be? Could it be more solidified to be consent or something that more closely resembles consent, from a legal standpoint?

Mr. Darian Baskatawang: Broad can actually be good, because it allows more ability for the government and the communities to define what that looks like on a nation-by-nation basis. Requiring too much consent can put too much strain on the communities, where they may not have the capacity to do so.

Therefore, when we think about how we create structures or funding mechanisms, or whatever the regulations may look like, we need things to be broad so that they can be figured out later on on a nation-by-nation basis.

• (1000)

Mr. Eric Melillo: Thank you.

Is that my time? Okay. Thank you very much.

The Vice-Chair (Mr. Jamie Schmale): We'll go over to Mr. Battiste for six minutes.

Mr. Jaime Battiste: Thank you.

Meegwetch, wela'liog and hay hay for your testimonies today. It's been really interesting hearing from you today.

I live in the Mi'kmaq community of Eskasoni, which is the largest Mi'kmaq community in the Atlantic. Your testimony today very much reminds me of my grandmother, because I can remember growing up and living in Eskasoni when she was in another community called Potlotek. Every Sunday, we'd go to Sunday dinner with her and we would fill up these big, blue containers of fresh water to take to her.

The reason I'm reminded of her is that her name before marriage was Annie Lewis, which is like Chief Lewis, but in the residential school, they changed her name to Louis. Seeing both of your last names reminds me of the story my aunt just shared with me this week about going through the records.

Chief Moonias, you spoke very passionately and strongly, and you said in a few words what I think a lot of first nations are feeling across this country when it comes to this legislation: Act now. How many more generations have to fill up water bottles for their grandmothers? You also said, "Don't start over", because we need to get this across.

I look at some of the things within the purpose of this legislation and I see it recognizing the inherent right within paragraph 4(a). I also see it talking about the need for sufficient, adequate, safe and quality drinking water. Moving forward, I would recognize UN-DRIP in here, also saying that there should be minimum national standards and that we should be closing the infrastructure gap and protecting source water protections. These are all of the things we keep hearing from first nations communities and witnesses.

It feels like there may be a disconnect, or there isn't that trust in government for 300 years' worth of reasons. We're celebrating our 300th treaty in our nation next year. There are all kinds of reasons.

Chief Moonias, the first question for you is this: Instead of having the government implement this, should we have a first nations authority—maybe a regional authority—doing this work on behalf of first nations, because there's no trust in the government from first nations? That's the starting question.

Chief Chris Moonias: I think that, a lot of times, especially when things are happening in our territories and homelands, we want to make sure we are part of it, as far as taking the leading role and making sure.... We know what we want. We know how we live. We've known for many years—since time immemorial—what our community needs.

It wasn't until we hired an engineering firm that the government believed we required a brand new water plant. My community has been saying that we need a new water plant since 1995. It wasn't until we made that demand, after we were evacuated.... We said that the only way we were going home is.... We need a table so that we can have those positive discussions and work off them. Those things didn't happen for a while. Of course, one of our demands was to get what actually happened: an investigation about a water plant. Since then, science proved that Neskantaga needed a water plant. That's when the government started saying, "Yes, you guys do need a water plant." We've been saying that all along.

It's almost the same thing. We need to take the leading role. We need to work in partnership too. There are unlimited things we can do if we work together.

Mr. Jaime Battiste: Thank you, Chief.

Chief Lewis, you said this legislation "downloads" liability to first nations.

I've read through the document. Can you show me where that exists? Where does it say that we're off-loading our responsibilities on water to first nation communities?

• (1005)

Chief Byron Louis: Well, if we're going to ask a direct—

Mr. Jaime Battiste: No, it's Chief Lewis who said that.

I'm sorry, Chief Louis. I got you all mixed up. It's very close.

Chief Henry Lewis: I wish my technician was here for that question. You know, I have technicians who look after these matters for me.

When it comes to delegated authority, it's very evident. It's being off-loaded to the provinces. We have proof of that.

I delegate the question itself to my technician.

Mr. Jaime Battiste: My reading, Chief, is this: It says that the purpose of this is to ensure there's collaboration among first nations and federal and provincial organizations in terms of source water protection. We've seen how the Province of Alberta failed that. I agree with you. As a first nations person, I would never want to be seen off-loading responsibility to a first nations community when provincial and federal governments should be on it.

However, I need to be specific in terms of amendments. Where do you see that, and how do we clarify it to make sure this is not the intention, moving forward?

Mr. Bailey Komarnicki (Director, Operations, Onion Lake Cree Nation): Good afternoon. Chief Lewis has tapped me to answer that.

We're not here to discuss amendments. We're here to outright reject this bill in its entirety.

Mr. Jaime Battiste: You're rejecting something based on a premise I've heard many times, but I can't seem to find that premise within this document.

You're saying that we're doing something. As a first nations MP who is in favour of acting now and strengthening it, I need to see where this is and how we can fix it.

The Vice-Chair (Mr. Jamie Schmale): Okay, we'll get a quick answer. Then we'll have to move on to our next questioner.

Ms. Norma Large: If you look at the ISC act of 2019—

Mr. Jaime Battiste: We're talking about this legislation. I need to see it here.

Ms. Norma Large: Hold on a minute. I'm answering your question.

If you look at the ISC act of 2019.... We were told by the department—by Minister Hajdu—that it intersects with this law, and that the intention, as the chief just said, is for a gradual transfer of all programs and services, which include water, waste water and related infrastructure.

When you look at Bill C-61—relative to how it intends to build indigenous governing bodies like the first nations water commission—and the ISC act in tandem, you can see what we're concerned about. It's that there is—

Mr. Jaime Battiste: It's not—

Ms. Norma Large: No, Bill C-61 creates the legislative basis for the off-load planned through the ISC act of 2019. The devolution pathway that Canada began in 1961 is being delivered through successive legislative mechanisms. On water, waste water and related infrastructure, we are talking about Bill C-61.

You cannot separate those two things, sir, with all due respect.

Mr. Jaime Battiste: Therefore, it's not in this legislation. It's in another legislation.

The Vice-Chair (Mr. Jamie Schmale): I'm sorry. We're already two minutes over—

Ms. Niki Ashton: I have a point of order.

The Vice-Chair (Mr. Jamie Schmale): —so I'm going to have to move on to the next line of questioning.

However, there is a point of order.

Ms. Ashton.

Ms. Niki Ashton: Yes, it's simply to say that we are clearly over time.

I'm very concerned that witnesses who clearly disagree with the government are being treated this way. We should respect what they have to say without going back at them.

The Vice-Chair (Mr. Jamie Schmale): Okay, Ms. Ashton. That's understood.

Now we're going to our next line of questioning. It's by the Bloc Québécois.

You have six minutes.

[Translation]

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

Ms. Exner-Pirot, first, thank you for your flexibility. I'm sorry about the inconvenience for your children. I hope that you still managed to get to the bus.

I was quite curious to hear more about your views on specific amendments. You spoke about the lack of clear definitions and roles for commissions, particularly in terms of who ultimately regulates water.

I want to ask you an open-ended question and let you respond based on what you heard today. We're almost at the

clause-by-clause stage of the bill. What specific changes are needed to make it clearer?

[English]

Dr. Heather Exner-Pirot: Thank you for the question.

It's clear that protection zones, source waters and adjacent waters are not on reserve. We need to define those and also understand who has jurisdiction over those waters. I'm not sure this is something a bill of Parliament can do. If this is not within the committee's and Parliament's purview, maybe protection zones, adjacent waters and source waters should be somewhere else.

It also brings up a more existential question: What is the role of the Canada water agency? This government is also creating a Canada water agency that is meant to solve some of those issues. Where there are competing interests, or where there are interests across competing jurisdictions—provincial, territorial, federal and first nations—we'll have the Canada water agency to sort out some of those. That agency is not listed in this legislation, so it feels like one hand of the government is doing something here, and another hand is doing something there.

Again, from my perspective—it's why I'm interested in this—I have to say that, when you want agricultural development, mining development, oil and gas development and manufacturing development, as one of the chiefs mentioned, but you don't have clarity over this, you don't know who's going to be able to provide the permit. You don't know what the jurisdiction is or what laws are going to be where. One first nation may even have one law and a different first nation may have another law further upstream. It causes anxiety, I think, on the part of industry when government is moving ahead with legislation but has not considered the consequences of it yet.

This is not to take away from first nations' indigenous rights. It's to ask, what can this committee and this legislation accomplish with their jurisdictions?

• (1010)

[Translation]

Mr. Sébastien Lemire: Some indigenous communities are asking for more flexibility, while others seem to have issues with it.

Could you give us your definition of a protection zone?

[English]

Dr. Heather Exner-Pirot: I don't have the expertise to provide that. I hope there are government lawyers, maybe in ECCC, who could further define what they mean by a protection zone.

However, I have to emphasize that it is important for everyone to know what we're all thinking about as a protection zone before we pass this law saying that first nations can have laws over protection zones.

[Translation]

Mr. Sébastien Lemire: Do you know what happens in situations where different provinces are affected? In Quebec, we talk more about protected areas. There's also the Alberta-Saskatchewan border situation.

How can we ensure greater consistency in the legislation, given that water falls more under provincial jurisdiction?

[English]

Dr. Heather Exner-Pirot: Again, I guess that would be something for the Canada water agency to try to determine. The Department of Fisheries and Oceans probably already has some guidelines. I think making sure we're consistent across different acts and legislation, provincially and federally....

I know that's hard work. I know this bill is the result of a lawsuit and you have to put something out there. You have to do something. Trying to be more specific in defining "First Nation lands" on reserve would solve some of those issues. Maybe the protection zone thing is for something larger, like the Canada water agency.

[Translation]

Mr. Sébastien Lemire: In many cases, when commissions are set up to clarify this type of situation, the first nations say that their voice isn't heard.

How can we ensure that the first nations' voice is heard and that they play a greater role in these commissions?

[English]

Dr. Heather Exner-Pirot: That's a great question.

I'm sure there's no silver bullet and no easy answer. Different nations have different capacity.

In a lot of cases, capacity funding for people to engage—to pay for their own lawyers and have their own legal representation—is one good way of doing that.

[Translation]

Mr. Sébastien Lemire: It's particularly important to clarify our legislation if the solutions involve counsel or legal matters.

I would like you to talk about corporate social responsibility.

How can we ensure that companies respect the rights of the first nations, especially when it comes to shared waterways? How can we ensure that they take responsibility in the event of a spill, for example? How responsible are these companies for water quality?

[English]

Dr. Heather Exner-Pirot: Of course, it varies by project, but they would have to apply to get a permit for the water they're going to use, or the effluent they're going to put back in downstream. What will the quality of that water be once it goes back in? The Government of Canada and the provincial governments already control that. Again, if first nations are also going to have laws and be applying permits.... These all work together. It is known that it's not, you know.... It's tripling the layers of bureaucracy.

We all want the same outcomes. We all want clean water. We all want it to be up to standard. However, I think it's about articulating

very clearly what that standard is. Then industry can decide whether it's economic for them to meet it, and whether or not to go ahead with a project.

• (1015)

[Translation]

Mr. Sébastien Lemire: Thank you.

The Vice-Chair (Mr. Jamie Schmale): Thank you, Mr. Lemire.

[English]

We are going to the NDP next. Ms. Ashton has six minutes.

Ms. Niki Ashton: Thank you very much.

As we were getting ready for the second panel, I happened to get a notification through Facebook that TCN, Chief Beardy's community, had to cancel school today because the water had to be shut off to the school. Kids are being impacted once more as a result of this insecurity when it comes to water in TCN, not to mention the desperate need for a new school that I'm sure Chief Beardy could speak about.

I'm wondering, Chief Beardy, if you could share with us just how destructive it's been to not have clean running water for years, and the domino effect. Here we are hearing about the schools shutting down. You talked about people getting sick as a result of federal negligence. Can you share with us just how difficult that has been?

Chief Taralee Beardy: Good afternoon.

I want to say that it has impacted our people's health and mental health and overall community wellness.

Like you mentioned, we have aging infrastructure. We often have water breaks. Today, we have a water break in our community affecting the whole school and community now. Kids have to stay home and the water line has to be fixed. Again, our own dollars don't even cover the ongoing repairs needed year after year, because we always have water breaks in the community. As I said, we have aging infrastructure.

We have fire hydrants that don't work properly. We have some fire hydrants that don't even have access to water. When we had a fire, I think, in February 2022, we didn't have an adequate water supply. Our water truck was down, so a whole apartment complex burned down. It was an eight-unit apartment, but we had 10 families living in there. They were all displaced.

Water has impacted the overall health of our people mentally. I heard the other chief mention diabetes and home dialysis. We're also having the same issue. We have a high death rate due to diabetes, and people can't do home dialysis. We just lost a mother who had five children and two grandchildren. She died from complications due to diabetes, and she was a young mother. We are impacted in so many ways.

Thank you.

Ms. Niki Ashton: Thank you for sharing that very difficult time, Chief Beardy, and I know our thoughts are with the Ouskan family and everyone who is impacted.

I quickly would like to go to you, and then have a moment to hear from witnesses from Onion Lake. How important is it, Chief Beardy, for Canada to recognize inherent rights and treaty rights when it comes to clean water?

Chief Taralee Beardy: If you think about Canada, you know, it is a very rich country. However, our first nations people are still suffering. We're still at the bottom of the barrel when we should be thriving. We should have homes. We should have clean drinking water for each home. We should have infrastructure for water, but that's not happening at all. We're at the bottom of the barrel.

Our people are suffering, and there are times when we don't even have drinking water in our homes for days, especially for people who have water tanks, because we just don't have the resources to make sure that every house that has a water tank can be filled in an adequate time. There are days at a time when our people are suffering with no water to even wash, clean or cook. We even run out of bottled water, so our people are suffering. That's not right in a country like Canada.

Thank you.

Ms. Niki Ashton: Thank you.

I'll move quickly to witnesses from Onion Lake.

• (1020)

Chief Henry Lewis: Thank you very much.

I'm very happy that you asked that question because inherent rights allude to what we had before treaty. Treaty rights negotiations were afterwards, but inherent rights were the ones that we had prior.

I'd like to capitalize on a question. I flew 2,000 miles to be here, and I'd like to stress the importance of the relationship to water as a

pipe carrier. I'm a lodge holder, and also, you know, we have a special relationship with water.

As a child, 68 years ago, I just about drowned. The water spirit just about took my life, and I was given a second chance in life. From that day on, I made an obligation to the thunder spirit that I'd speak on his behalf, and that's very important to note here. Nobody stresses the importance of our special sacred relationship with water. We were all in our mom's womb in the sacred water for nine months. Nine months—think about that. No human being with two legs can ever legislate water, never.

That's the spiritual component of it. I came on strong with that, and I'm not going to apologize for that because, you know, the oath I made to the higher power was that I'd work for all of God's creation under natural laws.

We are a sovereign nation when it comes to regulations. We have our own laws, and we put our regulations under our own laws. That's the sovereign position I'm presenting today.

Thank you very much.

The Vice-Chair (Mr. Jamie Schmale): Thank you very much, Ms. Ashton, for your line of questioning.

Thank you to our witnesses here today, both in the first panel and in the second.

Unfortunately, we are out of time for this committee meeting, but if you have anything additional to submit, you can do so in writing and the committee will consider that in this study as we move forward.

Is it the will of the committee to adjourn?

Some hon. members: Agreed.

The Chair: Thank you very much everyone. The meeting is adjourned.

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