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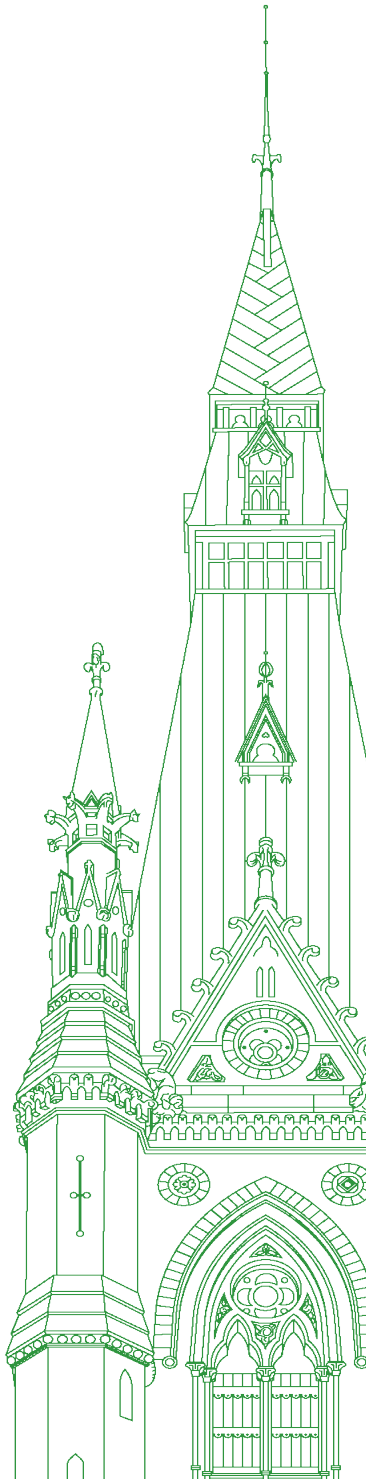
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Chair: Terry Sheehan

Standing Committee on Indigenous and Northern Affairs

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● (0815)

[*English*]

The Chair (Terry Sheehan (Sault Ste. Marie—Algoma, Lib.)): I call this meeting to order.

Welcome to meeting number 45 of the House of Commons Standing Committee on Indigenous and Northern Affairs.

We're gathered here on the unceded territory of the Anishinabe Algonquin nation. Pursuant to the order of the House of Friday, October 9, 2026, the committee is continuing its study of Bill C-37, first nations clean water act.

Today's meeting is taking place in a hybrid format pursuant to the Standing Orders. Members are attending in person in the room and remotely using the Zoom application.

Before I continue, I would like to ask all persons participating to consult the guidelines written on the cards on the tables. These measures are in place to help prevent audio and feedback incidents and to protect the health and safety of all participants, including our wonderful interpreters.

Thank you for being here today.

You'll also notice a QR code, which you can click to see a short awareness video.

I would like to make a few comments for the benefit of the witnesses and members. Please wait until I recognize you by name before speaking. For those participating by video conference, click on the microphone icon at the bottom of your screen to activate your mic, and please mute yourself when not speaking. There has been a sound check. You've all passed. Congratulations. We're looking forward to that.

I would like to remind all witnesses that the committee members may ask questions in either French or English. If you need interpretation, please take a moment now to prepare your earpiece and select the listening channel you need in advance in order to take full advantage of the time allotted for questions and answers. It's going to go back and forth, so keep your earpiece in.

Remember that all comments should be addressed through the chair. For members in the room, if you wish to speak, please raise your hand. For members on Zoom, of course, use the raise hand function. The clerk and I will manage the time.

I would now like to welcome our witnesses on the first panel.

From Aboriginal Water and Wastewater Association of Ontario, we have Philip Tangie, chairperson. From Canadian Environmental Law Association, we have Theresa McClenaghan, executive director and counsel, by video conference. From the Indigenous Bar Association, we have Melinda Moch, vice-president, by video conference.

Each of you will have five minutes. When you have about 30 seconds left, I'm going to say, “30 seconds”. That will give you time to wrap up your thoughts. There'll be plenty of time during the question-and-answer period to get out further things from your notes if you do not complete them.

Thank you very much.

First off, we're going to go to Philip in the room.

Please go ahead for five minutes.

Philip Tangie (Chairperson, Aboriginal Water and Wastewater Association of Ontario): Thank you, Mr. Chair.

Good morning, Mr. Chair, committee members and fellow witnesses. I'm Phil Tangie, chairperson of the Aboriginal Water and Wastewater Association of Ontario, also known as AWWAO. We're a non-profit incorporated organization, conceived of by first nation operators for first nation operators, that began in the mid-1980s. We work directly with first nation operators who are caring for first nation water treatment systems in Ontario. AWWAO successfully applied for funding from Health Canada that enabled AWWAO to officially begin service delivery in 1995. AWWAO is comprised of an eight-person volunteer board with one paid employee. She is our coordinator.

We currently have 205 voting members and six associate members across Ontario. We're primarily a certification training service coordinator hosting two annual training weeks in addition to an annual general meeting that incorporates a training opportunity as well at that particular three-day event. We bring in operators from across Ontario to this event. AWWAO promotes our combined AGM and training week as a networking opportunity for first nation operators, who share their knowledge and expertise with each other. They find it invaluable. They really do. It keeps growing from year to year.

To foster membership growth, in 2013 we introduced a water cup challenge. It invites members to submit a sample of the water from the reserve's treatment systems. We get that water vetted. We make sure they test it to make sure it's safe to drink. They send us a certificate stating that it's safe to drink prior to inviting our panel to taste the water. We've incorporated a northern and a southern winner.

The northern winner is awarded the Josephine Mandamin water taste challenge cup. We had the honour of inviting Josephine Mandamin to attend one of our AGMs back in 2013 in Thunder Bay, Ontario. Josephine Mandamin, who has passed, was a renowned elder originally from Wiky. She became known as Grandmother Water Walker. She brought awareness to water rights, if you want to call them that, because she believed water actually did have rights too. We promoted that. She honoured us by allowing us to use her name for our cup.

AWWAO also produces and distributes a monthly one-page briefing and a quarterly newsletter to our paid membership. We administer a practical certification exam to first nation previously certified operators to assist them in recertifying as water operators. Successful applicants are granted a conditional operator's certificate by the provincial Ministry of the Environment, Conservation and Parks through the Ontario Water Wastewater Certification Office. Our publications inform our membership of current water-related issues impacting first nation communities across Canada, including the proposed Bill C-37, the first nations clean water act.

First nation operators in Ontario have been following the proposed legislation from its introduction back in 2013 as the safe drinking water act for first nations, which was repealed and replaced with new proposed legislation in 2022, which evolved into Bill C-61, an act respecting water, source water, drinking water, waste water and related infrastructure on first nation lands. That was introduced in Parliament in 2023. Now with the recent introduction of Bill C-37, first nation operators in Ontario and across Canada are eagerly awaiting the results of this latest legislation. Operators will be directly impacted, and they are well aware of the direct impact it will have on them.

● (0820)

As a first nation certified class four overall responsible operator servicing first nation communities from a water hub in northwestern Ontario, and as the chairperson of AWWAO representing first nation operators in the province, I—we—share the common goal of safe potable water delivery within our first nation communities. We all believe that legislation is imminent.

At the AWWAO AGM, we polled our membership. They had various concerns, which I could bring up a little later when I have more time.

The Chair: Thank you very much, Philip.

Philip Tangie: Thank you, Mr. Chair.

The Chair: Now we're going to Theresa online.

You have five minutes.

Theresa McClenaghan (Executive Director and Counsel, Canadian Environmental Law Association): Thank you very much.

Good morning, Mr. Chair and members of the committee. My name is Theresa McClenaghan. As you noted, I'm with the Canadian Environmental Law Association. We're an Ontario specialty legal aid clinic and national NGO. We provide a range of legal services, including the representation of clients who qualify for our services, public legal education and law reform. Our clients may include individuals, not-for-profits, community groups and first nations and their members.

Thank you for inviting me.

CELA has a long history of working on safe and clean drinking water, including working with several first nations on source protection planning. We have been advocating for the adoption of appropriate federal legislation to support first nations in the protection of their drinking water for many years, in particular since the Walkerton drinking water tragedy in Ontario. At the ensuing inquiry, Justice O'Connor devoted a chapter to first nations drinking water and the necessity to ensure that first nation members have as much safe water as any other resident of Canada.

We have analyzed Bill C-37 and provided a brief to the committee in advance of this meeting. It's also on our website, along with a copy of the shorter plain-language summary of an analysis that we had previously prepared.

CELA advocates that Bill C-37 should be adopted expeditiously. I am of the view that the bill has important and useful provisions in its preamble, purpose and principles, as well as many other very appropriate approaches to first nations' governance over their drinking water. Its inclusion of a multibarrier approach to protecting drinking water is very important.

In terms of your study, there are two main amendments that we recommend. I'd like to focus on these today.

The first is with respect to the right to clean and safe water. We recommend that the current version of clause 3 in the bill be deleted and replaced with the language, “It is recognized and affirmed that it is a human right of every individual on first nations land to have access to clean and safe drinking water in accordance with this act.” This was the language reported out by this committee in Bill C-61.

The second amendment I'd like to suggest relates to the scope of jurisdiction in relation to the protection of source water for first nations drinking water. Bill C-37 recognizes the inherent right of self-government, as protected by section 35. This includes jurisdiction in a source protection zone, as set out in multijurisdictional agreements. However, in clause 6, the bill restricts this jurisdictional recognition to a “protection zone that is adjacent to the First Nation lands of a First Nation”.

We recommend that the word “adjacent” be removed in paragraph 6(1)(b) of the bill and replaced with “for”. Source water may arise in various locations that are not adjacent to a first nation, such as upstream in a surface water system or at another location where the underground flow brings water to a first nation's drinking water system.

Our further analysis is set out in our brief. I'd be happy to answer additional questions from the committee.

As I indicated, we encourage the expeditious passage of Bill C-37 so that first nations can proceed with the additional tools this bill would provide for clean and safe drinking water.

● (0825)

The Chair: Thank you very much.

Now we will go to Melinda for five minutes.

Melinda Moch (Vice-President, Indigenous Bar Association in Canada): *Tansii* and hello, honourable Chair, committee members and fellow witnesses.

My name is Melinda Moch. I'm coming to you today from Treaty 1 territory in Manitoba and am honoured to appear today on behalf of the Indigenous Bar Association in Canada, a national organization of indigenous legal professionals who are dedicated to advancing indigenous legal matters.

I'll start by saying that equitable access to clean and safe drinking water is an absolute, fundamental human right, and for far too long, first nations communities have lived without the same access to safe drinking water that other Canadians absolutely take for granted. Bill C-37 presents an opportunity to address this long-standing inequity. We welcome its recognition of first nations jurisdiction over drinking water, waste water and related infrastructure.

However, while this is the intent of Bill C-37, the draft bill in its current form does not in fact have the necessary framework to achieve that objective. Today, what I'd like to address are some of the potential legal, constitutional and financial risks to Canada if certain gaps in this bill remain unresolved.

First and foremost, there's a risk that Bill C-37 may not adequately address Canada's existing legal obligations.

Canada recently faced significant litigation concerning access to safe drinking water in first nations communities. The recent Federal Court decision in Shamattawa First Nation v. Canada recognized that Canada owes both a fiduciary duty and a common law duty of care relating to access to safe drinking water. While that decision remains under appeal, the case illustrates the importance of carefully considering Canada's continuing obligations when developing a new legislative framework. The risk here is that recognition of first nations jurisdiction without adequately addressing infrastructure, funding and source water protection leaves unresolved circumstances that may give rise to litigation, costing Canada and first nations significant legal fees.

Secondly, there's a risk that aspects of Bill C-37 may fall short of Canada's commitments under the United Nations Declaration on the Rights of Indigenous Peoples Act and UNDRIP itself.

DRIPA requires free, prior and informed consent: firstly, before adopting and implementing legislation that may affect indigenous peoples and, additionally, before approving projects affecting indigenous lands, territories and resources. In contrast, Bill C-37 uses language that diminishes or reduces the efforts required by Canada. For example, it references that recommendations by the minister must “reflect co-development”. Similarly, Bill C-37 appears to place borders on the jurisdiction of the resource in question. Within the bill, these are referred to as “protection zones”. In these matters, we would highlight concerns that this bill may lack statutory consistency with DRIPA.

Third, expanding on that concern, there is a risk of jurisdictional uncertainty concerning source water protection.

Water does not respect survey boundaries. UNDRIP does not limit indigenous rights to reserve lands. However, Bill C-37 identifies jurisdiction over water that is in, on or under first nation lands and adjacent protection zones, which are not yet defined. Responsibility to deliver safe drinking water lies with the first nation, while effective authority over the source water in their traditional watershed is outside of that jurisdiction.

In theory, a province may authorize a project or activity outside of a first nation, Canada may provide funding for drinking water infrastructure and a first nation may be responsible for operating the water system. If the water supply becomes compromised, then questions will arise about which government had the authority to prevent the harm and which government was responsible for responding, and whether the first nation had a meaningful opportunity to participate in the decisions affecting its water.

Where effective source water protection depends on co-operation, there's a risk that gaps or disagreements could leave important matters unresolved. Relatedly, Bill C-37 completely lacks any dispute resolution mechanisms.

I will close by simply saying or highlighting that meaningful jurisdiction requires far more than just legal recognition. It requires adequate infrastructure, sustainability, predictable funding and the capacity for the persons involved to make and implement decisions. If those needs are not adequately addressed, there's a strong risk that first nations will assume responsibility for systems that remain under-resourced and a corresponding risk that Canada could continue to face legal and financial uncertainty concerning the adequacy of its support and continuing obligations.

● (0830)

Our concern, honourable members, is that certain features of this bill may leave foreseeable risks insufficiently addressed. You have an opportunity now to consider those risks and to ensure this draft legislation has achieved the principle of free, prior and informed consent and align this bill with UNDRIP and DRIPA.

Thank you so much. I welcome your questions later.

The Chair: Thank you very much to all of our presenters.

We're going to start the six-minute round. First off, we have the Conservatives.

MP Morin, please go ahead.

Billy Morin (Edmonton Northwest, CPC): Thank you, Mr. Chair.

Good morning to our witnesses.

So much of this conversation around clean water is coming from chiefs, lawyers, politicians and public servants who operate in the House of Commons. This is all great stuff, and I'm not trying to downplay the roles that they play, but I feel like operators, too—the people on the ground—are often forgotten about in this conversation. They're the people who are delivering water day to day. They're the people operating the systems and keeping them going.

I think back to home and my operator, Dennis Donald Jr., who's reliable and comes in after hours if he needs to, and I think of Dustin Gladue. They are operators at home who are so reliable and deliver water to services. Often, their voices are forgotten in some of the high-level conversations we have here in Ottawa, but they do a great job.

I'm glad Mr. Tangie is here today. He didn't get to finish his testimony.

You were about to go into who you represent: the operators, the people delivering the service that's needed. It's one thing to say “clean water,” but those who move it, make sure it's clean and test it are the people who make it move and will make it happen every day for years to come.

Can you finish your thoughts? You said you surveyed the operators in Ontario in your organization. What were their thoughts? What were some of the concerns they had with this bill? Where do they want to see it go?

Philip Tangie: Thank you, Mr. Morin. I'd be glad to do that for you.

Operators expressed concerns about ongoing education for their leadership in particular, because they're finding that their leaders are not educated about what their responsibilities are. As a result, they feel there's not a synergistic relationship between the operators and their leadership. They would like to see more education for themselves and for their leadership. That was one of the concerns that came up.

They also expressed concerns about the exclusion of grassroots frontline soldiers—water operators—from the discussions that are taking place and have taken place as far back as this legislation's inception as Bill S-8 up to and including Bill C-37.

There were concerns about enforcement and what that's going to look like. I know there is something in the bill that outlines that, but it's not specific and it's not in language that operators fully understand. It's more like legalese. They would be interested in knowing more about that, and they would like to know exactly how it will directly impact them as operators.

● (0835)

Billy Morin: Thank you, Mr. Tangie.

Just to expand a little bit, your organization has been around since the eighties. You have institutional knowledge that's multigenerational now. This bill is contemplating a water commission office, a new kind of commission that will guide government and first nations.

Do you see your organization not being ignored—well, maybe a little bit ignored, like the grassroots voices you referred to—but instead playing a significant role with that institutional knowledge in how we move forward?

I'll stick with Ontario, which you represent. Of course, a lot of the boil water advisories are in northwestern Ontario and this hub around NAN, but you guys have significant knowledge and operations in that area, and you have operators, I'm sure, who are in that area. Do you think your organization could provide the necessary institutional knowledge, expertise and historical knowledge to something in conjunction with the commissioner's office that this bill proposes?

Philip Tangie: Yes, to a certain extent. I believe that AWWAO would be able to provide some guidance to the commission, particularly on how to educate and train operators.

All things being equal, even if every first nation had a water plant working 100% perfectly, it would still come down to a lack of operators to run the systems. There's just not enough operator capacity out there. That means more training would be required from what we're learning and what we're being told. There needs to be more interest generated among the youth in first nations communities about the profession of working as a water plant operator.

There are additional contingencies that would have to accompany that, such as awareness and equitable salaries for first nations operators and what it means to be an operator, not only from a first nations perspective but also from a health and safety perspective. Most of our operators, our membership, do understand that, but that needs to be introduced at an early age. We need to attract young first nations operators on reserve and inform them about the possibility of becoming an operator and what that means to the community.

As an example of AWWAO's work towards achieving that goal, I was gassing up in a first nations community back in 2013, and I suggested to the gas jockey that he become an operator. He had no idea what that job involved. I gave him some information, and he actually applied. Through training that I helped him access through our tribal council out of Kenora, where I live, he is now a class two operator. He showed great success in following not only my advice but also AWWAO's advice. He became an AWWAO member, and he attended many of our AGMs and training sessions. That helped him out significantly.

That's one of the things that AWWAO continues to do. We like to attract and invite first nations individuals to become operators. We invite them to our AGMs. As I mentioned earlier, they're an excellent networking opportunity. After they attend one, they all express gratitude for the opportunity. It really enhances them as people and as operators, and they continue to want to attend our events.

● (0840)

The Chair: Thank you very much. That's a good way to end a good story.

Next is MP Brendan Hanley, please.

You have six minutes.

Brendan Hanley (Yukon, Lib.): Thank you very much to all the panellists.

I'd like to begin with Ms. McClenaghan.

You talked about the importance of defining source water protection. Clearly this is an area where we need to have clarity through the legislation. There is a pathway proposed in Bill C-37 for collaboration on source water protection agreements, given the provincial jurisdiction. I think this navigation of federal, first nations and provincial jurisdiction is where the legislation is attempting to find a pathway.

I wonder if you can elaborate on where we've gotten so far with this legislation. I hear you about passing this expeditiously. I want to get your further thoughts on the importance of how we define and achieve clarity on source water protection, given that outside of first nations communities, this does fall under provincial regulatory regimes.

Theresa McClenaghan: Source water protection is included in the bill very appropriately, and CELA is extremely gratified to see it there, because trying to protect drinking water without including source water protection means that you could end up with inappropriate sources, and it's very difficult to treat them later. It does that.

I agree that source water protection requires co-operation among jurisdictions. We've been very involved, and I personally have been very involved in source water protection in Ontario for decades, both at the inquiry and with the legislation here. It included extensive participation, for example, in developing the framework with voices from first nations communities like the Ontario First Nations Technical Services Corporation. That vision, which was later adopted in Ontario, understood that we need multijurisdictional and multisectoral approaches, because protecting sources is going to require action by landowners, by municipalities and by provincial governments, as well as by the federal government.

I'll quickly wrap up by giving you an example. We worked with a few first nations to develop high-level source protection plans, both in northern Ontario and southern Ontario. As the threats to their source are identified, which is one of the first things you have to do anywhere, some of those threats may be controlled by provincial permits, like a permit to pollute surface water; by federal permits, like hazardous transportation, for example; by municipal land use planning; by sector-specific action like applying biosolids on land; or by private landowners with their fuel storage.

The plans come up with answers, and those are proposed in this legislation to be recognized in agreements. I think it's an appropriate approach, because, frankly, that is the gap right now. How else do you require all of the different actors to do what they have to do to protect first nations source water?

Brendan Hanley: Thank you. That's very helpful.

I want to turn back to Mr. Tangie.

It's great to have you here. I agree with my colleague on the importance of having actual operators at the table, so we can hear their voices. You're an experienced operator yourself, as well as the chairperson of the association.

I wonder if you can talk about the relationship that you have with Indigenous Services Canada in the support of operator training, certification and maintenance and, therefore, the recruitment and retention that you referred to in your testimony. Also, can you speak to the role of funding and how the commitment to funding as embedded in this legislation is of importance to first nations water operators?

● (0845)

Philip Tangie: Thank you. I'd be glad to.

AWWAO has what I would consider a fairly good relationship with Indigenous Services Canada, and with Health Canada, particularly as of yesterday. We've been struggling over the years. It's been good. They're one of our funders, along with FNIIP. They have been funding us since 1995. We hadn't received an increase in our funding to accommodate our needs and take into account inflation up until yesterday.

Yesterday, when I was at the joint gathering in Toronto, I met with Indigenous Services Canada specifically to request an increase in funding, at which point they actually agreed to give it to us. That was good news for AWWAO and something that was a long time coming.

They have been very supportive with the funding as of yesterday. AWWAO envisions expanding beyond training services. That's something else we brought up as well. We have been in receipt of great support from them.

I'm also a water hub manager out of northwestern Ontario, working for the tribal council. As a hub manager, I have a great relationship with Indigenous Services Canada. They have been quite receptive. They have been helpful. From my perspective as a water plant operator, as a hub manager and as AWWAO chairperson, the current water team that they have in place is one of the better water teams that I've worked with at Indigenous Services Canada.

[*Translation*]

The Chair: Thank you very much.

Mrs. Gill, you have the floor for six minutes.

Marilène Gill (Côte-Nord—Kawawachikamach—Nitassinan, BQ): Thank you very much, Mr. Chair.

I'd like to thank all the witnesses for joining us, in person or by video conference, to help us improve the bill, if necessary.

My first question is for Dr. Moch.

There was Bill C-61 previously, and now there is Bill C-37, which has been the subject of some criticism, including, and I believe you talked about this as well, the fact that the human rights issue has been removed from the bill.

I was wondering what the legislator's intention might be or what their fears might be, hypothetically, given we had a stronger bill but decided, in this case, to weaken it by removing these provisions.

[*English*]

Melinda Moch: Thank you very much for the question. It's very layered, and I'm not sure I'm well equipped enough to respond to the thinking process of others in drafting amendments and comparing the former Bill C-61 to this Bill C-37.

What I can speculate is that there's a strong possibility of an attempt to balance the multiple jurisdictional authorities overseeing something that is a very valuable resource and a very basic human right to all. I think this is why the IBA has addressed the fact that we do have strong feelings about the fact that the bill, as currently drafted, does not address all of those parties equally. It's to the detriment of the first nations communities, based on the current draft legislation.

I'll just address some certain examples that I feel may be beneficial for the committee's consideration. I alluded to this in my five-minute presentation. For example, in subclause 20(1) in Bill C-61, the draft referred to the fact that recommendations “must be co-developed” with these bodies, referring to first nations communities that are affected. The current draft actually refers to the fact that those recommendations “must reflect co-development”. It's a softening of language that does not hold Canada to the high standard that it should be held to.

I'm not speaking to the fact that the prior draft, Bill C-61, was adequate. I'm simply identifying the fact that it does seem to be a diminishment. As I said, I believe I can speculate it's likely that this might reflect an attempt to balance that multijurisdictional space and place, which, in our opinion, is something that is vastly lacking in this current draft, because there is no dispute mechanism placed within this framework.

Unfortunately, disputes are going to be absolutely inevitable and you must account for that, especially when you have this cross-jurisdictional process where you have provinces, the federal government and the first nations communities.

● (0850)

[*Translation*]

Marilène Gill: Thank you very much. You had a lot of answers to that multipronged question.

I also have a question for Ms. McClenaghan regarding the relation between some of the bills.

We're looking at Bill C-37. We previously looked at Bill C-61. However, I have some concerns I would like to share with you regarding bills like Bill C-39, which may pose some risks. This aspect may not have been studied, but I still want to ask the question, because sometimes, we study several bills at once and some may impact others.

Regarding water, when we talk about regions of national interest, which are not defined, and projects under federal jurisdiction, do you think there is a risk of violating first nations' right to access drinking water?

[*English*]

Theresa McClenaghan: I take your point.

I'll direct the answer to Bill C-37 by referring to the fact that the impact on source water can come from all kinds of activities. That could be existing rules around allowing for mining, transportation or infrastructure projects, or new rules, including new priorities.

What's important is to recognize that a priority has to be protecting the drinking water. The way that source water protection works in other places and should work here, which I think is the approach that is envisaged, would be that you would identify those threats and make sure that you adjust those projects or those permits in such a way that the water is protected. Bill C-37 talks about entering into interjurisdictional agreements to enforce those rules in ways that could mean those underlying threats are actually addressed.

[*Translation*]

Marilène Gill: Actually, I was going somewhere else. I wanted to touch, for example, on environmental impact assessments. It will be possible for projects to get under way before impact assessments have been done. However, if projects start, they're already creating an impact somewhere. Then the assessment is done. I hope water resources are part of that.

My concern is that we could move very quickly and, in the end, projects would be creating an impact before we can get the full picture and before authorizing a project to move forward.

Therefore, is there a concern regarding the relation between these two pieces of legislation?

The Chair: Thank you.

Marilène Gill: You can send us a written answer, Ms. McClenaghan.

[*English*]

Theresa McClenaghan: My organization is a strong proponent of spanning laws like the Impact Assessment Act—

The Chair: Theresa, can you put that in writing? We're at the end of that round. You can send that to the clerk, and we'll get that.

Thank you.

We go to MP Dalton for five minutes.

Marc Dalton (Pitt Meadows—Maple Ridge, CPC): Thank you to all the witnesses for your presence.

It's great to have, Mr. Tangie, your on-the-ground perspective.

You represent Ontario. How many operators are there within the first nations at this point? Are they mainly part-time or full-time? Do you have any numbers?

Philip Tangie: I can speak to our membership. We have 205 full members and six associate members. That's 211, but within the first nation communities in Ontario, there are far more operators. Unfortunately, I'm not aware of exactly how many are working throughout Ontario. If I took some time, I could probably come up with an estimate. I know how many are working within my water hub.

Marc Dalton: How many first nation communities are there in Ontario, and do they all have operators at this point?

Philip Tangie: There are 133 first nations in Ontario, and no, they do not all have operators. That's one reason there are outstanding boil water advisories. We just don't have the capacity to fill those vacancies.

● (0855)

Marc Dalton: As for the position, is it a job between the clean water and also waste water? Would you say it's more of a full-time position or part-time position in most places?

Philip Tangie: It varies. In the larger communities, it's definitely a full-time occupation. In some of the smaller ones—and there are some very small communities out there—it would qualify as a part-time position.

At Grassy Narrows, for example, there's one operator there. Grassy Narrows is a large first nation. It's very high profile. It's not very large, but it's large enough. They have a water system and waste-water treatment system, and only one operator is available to attend, service and maintain them.

Marc Dalton: I imagine the operator does the testing, but is there also maintenance involved? Does there need to be a mechanic in some respects or a plumber? What types of skills are needed?

Philip Tangie: It helps if they have the skills to fix and repair things, because they wouldn't have to call someone in. They'd be able to act quickly and avoid emergency situations. Otherwise, they'd have to contract somebody to come in, and that could take time. That could put them on a boil water advisory, and it would cost them money. It can be expensive.

Marc Dalton: As for the contracting out, is most of that with other first nation operators, or is it with the province? Where do they get their other personnel if they can't do it themselves?

Philip Tangie: Part of it is with the province. They'll contact whoever's available in the area. I'll use Kenora and Grassy Narrows as examples. They have access to the Bimose hub, which is funded to provide operator relief services. It's the only hub in Ontario that provides that service. It's the only one that is funded to do that. All the other hubs are not. I've applied for funding to provide operating services for my hub, but that was denied, unfortunately.

Marc Dalton: On the topic of funding, how much of this is funding for operators? Is it by the band itself, or is it directed from other sources, Indigenous Services, etc.? Is the band directly responsible for funding?

Philip Tangie: It's for whatever the formula is that's provided by ISC. Their funding initially comes from ISC, and it's formula-funded, whatever that formula is. I don't know exactly how much the band is responsible for funding.

Marc Dalton: I'll go back to the number of boil water cases. You're saying that part of that is not having the trained operators. Can you expand a bit on that, as far as the number of advisories go?

The Chair: You have about 20 seconds, so if it's a long answer, you might want to put it in writing.

Philip Tangie: Yes, I'll just put it in writing, if that's okay, because that can be a pretty outstanding answer.

Marc Dalton: Yes, I think that's probably.... It's interesting. If I can make a last comment....

The Chair: Yes. Go ahead.

Marc Dalton: I don't know how long you've been waiting for increased funding, but it happened yesterday. It just happens that you're here today, so maybe that's "make you happy" type of funding.

The Chair: It's good timing.

Philip Tangie: Yes, I agree.

The Chair: MP Idlout, you have five minutes, please.

Lori Idlout (Nunavut, Lib.): *Qujannamiik, Iksivautaq*. Thank you, Chair.

Thank you to the witnesses for appearing on this important study.

My first question is for Philip.

I understand that in Ontario, first nations have an option to opt in regarding the Ontario plan. I'm wondering if you could share with us how many first nations have opted in to the first nations' source water protection plan, and if you're able to describe it, which Ontario first nations haven't and why they have not.

Philip Tangie: That's a tough question for me because I'm not fully aware of who is actually opting in at this point in time. I do know that there are initiatives that have been presented to the first nations in Ontario and that several of them, particularly the ones I've been working with, do want source water protection plans and are working to create those plans and to implement them within their territories. There's a lot of training that's available from various organizations—such as the OFNTSC, Aqua and other organizations—dealing directly with first nations' water and source water protection.

However, I really can't tell you exactly how many have opted in and how many haven't. I don't have that knowledge. I apologize.

● (0900)

Lori Idlout: That's okay.

I also have questions for Melinda and for the environmental law witness.

The legislation, Bill C-37, talks about "substantive equality". With regard to substantive equality, it says that there needs to be equality for first nations with other comparable jurisdictions. Can either of you speak to that?

Melinda Moch: Yes, I can briefly touch on that.

Substantive equality with other jurisdictions at first reading appears to identify the other jurisdictions as being the provinces or territories in question. I would suggest that, regardless of the legislation, this previously existed and was intended to exist long before Canada had legislation in any respect. That substantive equality, that sharing of a resource, has always been intended.

We have, however, a long-standing history of the first nations communities specifically being completely out of balance in that substantive equality. They are not receiving that in any means. While this is a positive, having this written into the bill, I also believe that there is a necessity to correct the imbalance that already exists, prior to speaking about substantive balance going forward.

Lori Idlout: Very quickly, I also want to ask either one of you about "progressive realization", about whether you've looked at other pieces of legislation where progressive realization is mentioned—for example, in the 2019 National Housing Strategy Act, as well as in the 2023 Canada Disability Benefit Act—and at whether, given that this exists in other legislation here in Canada, we have a system that will ensure that first nations' water is being addressed through this bill.

Theresa McClenaghan: Yes, I'm aware that there is other legislation and it expresses intent. My opinion is that because the right already exists, it should be reflected in the bill, as was previously the case.

I can also answer your previous question. I checked recently, and under the Ontario Clean Water Act, which is the legislation for source protection, two first nations in Ontario were named under that act as opting into the Ontario Clean Water Act system, although many more first nations participate in their source protection committees.

By opting in, it means that there's statutory protection of their water source. In terms of why others have not, I don't feel like I should speak to that decision, but it is an option for others.

The Chair: Thank you very much.

Madame Gill, you have two and a half minutes.

[*Translation*]

Marilène Gill: Thank you very much, Mr. Chair.

I have two more questions for Ms. McClenaghan.

Earlier, you weren't able to finish your answer to my question. You can do that. I think it was said you can send in a written response.

If not, I would like to address another issue: the Chalk River project. I've spoken many times with the Kebaowek first nation, and I know people are afraid. This fear isn't necessarily immediate. Obviously, the threat of nuclear waste is not immediate; it's a possibility. I wonder whether a bill like this one helps to protect the resource. Obviously, it's not necessarily the drinking water of the first nation itself that is affected, since we know water circulates. We talked about upstream sources. It moves. That's my first question.

My second question is about consultations. I think you said in your brief there wasn't enough consultation. Like Dr. Moch said, we want to move very quickly, to get things done quickly. However, could there be more consultation without slowing things down?

● (0905)

[*English*]

Theresa McClenaghan: In terms of consultation, I think I will defer to others on that question. We did recommend expeditious passage of the bill, because we think there will be better potential for protection of first nations water with it than without it.

In terms of the protection of the source, what source water protection allows is that you look at the intakes that take water from that water resource, surface water or groundwater similarly, and you prioritize the threats and how long it would take threats to get there. Then you decide on priority actions. How binding or strict those actions are depends on how acute the threat is. That's usually the way source water protection is done.

Just speaking generically, radioactive threats could be addressed. Tailings and breach threats could be addressed. Spills from transporting fuel could be addressed. All kinds of things could be addressed. It's meant to provide for protection in advance that appropriately responds to the level of risk and the hazard it would cause to the drinking water. It's a very practical system, and we have a long history of working with it throughout Ontario in all kinds of contexts up in the north and in central and southern Ontario, as well as other parts of the country.

The Chair: Thank you very much.

Next, we have MP Schmale for five minutes.

Jamie Schmale (Haliburton—Kawartha Lakes, CPC): Thank you, Chair.

Thank you, witnesses. I'll probably start with Ms. Moch, if I may.

In your opening remarks, you mentioned the foreseeable risks if this is not addressed. You mentioned a few of those in your opening remarks. I was going to get you to expand on that quickly, if you could, because I do have a follow-up question.

Melinda Moch: "Quickly" is going to be the hard part, but generally speaking—

Jamie Schmale: The best you can....

Melinda Moch: Generally speaking, I will address the fact that when there is no legislation in place, Parliament still has an opportunity to develop a more complete framework. However, when you have legislation in place, you basically put pen to paper—an intent or a goal—and oftentimes that's where litigation can and does occur, because there's substantial evidence or substantial proof of a final intent if it's not enacted appropriately.

As I said, I believe that the intent of this legislation is very.... It takes forethought into mind. It's addressing a problem that has a long-standing history here in Canada. However, the intended purpose isn't being addressed in this legislation. There are a number of gaps in it. I can send you written submissions on some of the specifics.

One of the key components we noticed in the drafting differentiations between Bill C-61 and Bill C-37 was a reduction by removing the word "meaningful". There was reference to meaningful consultation. The use of the word "meaningful" appeared throughout Bill C-61 and was removed in its entirety in Bill C-37.

Jamie Schmale: Okay. Thank you. I appreciate those comments. We do see on this side some pieces of legislation that I think will do some good. We have a few concerns with a few areas, but overall, when we studied the bill in the last Parliament, Bill C-61, departmental officials were asked if passing Bill C-61 meant that the government could then fix the boil water advisories: Were there barriers in place preventing the government from doing it? The answer that kept coming back was "no".

It seems that we just haven't gotten there. We've had indigenous spending going up from $10.3 billion in 2015 to $40.8 billion in 2025. That's seven times faster than overall federal spending, yet the advisories are still there.

You're in this day to day. You've lived it. In your view of things, what's the holdup here?

Melinda Moch: That's a great question. I strongly concur with what I perceive to be your thoughts on this topic. Regardless of whether there is legislation that exists or not, the principle of sharing that resource and the protection of it for all has existed since the inception of Canada, since the first fur traders visited these shores. The fact that first nations are completely inequitably receiving the short end of that stick is, unfortunately, a consistent thing that should not be occurring, regardless of whether there is legislation put in place.

Our concern with the legislation piece is that it lacks the principle of FPIC, or free, prior and informed consent. It should be existing throughout all decision-making processes with respect to resources in Canada. However, it's not. Putting this legislation into action without making sure it incorporates holistically all the issues and struggles that have been....

Our major concern here is that it does not address any of the lack of infrastructure that already exists. It's placing a responsibility, a liability and a requirement or obligation on first nations to continue with infrastructure that is already lacking in totality or is completely deficient for the purposes they require. Without addressing that imbalance, this legislation isn't going to help them. It's just going to hinder the process.

● (0910)

Jamie Schmale: That's a perfect segue to my next question.

The Chair: You have 15 seconds.

Jamie Schmale: Mr. Tangie, did you want to comment on that? It affects you and your membership as well.

The Chair: You have five seconds.

Philip Tangie: There's not much I can say in five seconds.

Jamie Schmale: In one word or less...?

Voices: Oh, oh!

The Chair: You can put much in writing and things of that nature. Thank you very much.

MP Lavack, you'll have five minutes to close.

[*Translation*]

Ginette Lavack (St. Boniface—St. Vital, Lib.): Thank you very much, Mr. Chair.

[*English*]

Thank you so much to all our witnesses for being here today and for your testimony.

My first question is for you, Mr. Tangie. This bill has substantial funding with it. You've just alluded to the fact that you've had positive conversations with ISC recently on providing additional funding to your communities. A big part of this bill as well is this idea of co-development, with financing around it, moving forward, to accompany the significant dollars, the $6.4 billion, attached to this legislation.

One of the critical elements is to look at a needs-based funding framework that gets developed together with first nations. The bill would suggest that capacity development and insurance for water operators are really part of that funding framework, or should be part of that funding framework, moving forward. How would you say that adequate, predictable, stable and needs-based funding in these areas could really support first nations, moving forward, with respect to the quality of the water in your communities?

Philip Tangie: Sustained adequate funding from ISC could help our first nation communities and their water treatment systems by providing them with adequate O and M. That's annual O and M, first and foremost, as well as salaries—adequate salaries that are, at the very least, compatible with non-indigenous or municipal salaries out there.

Those are three of the ways that could be supportive.

In terms of infrastructure, there has to be not only just O and M, but there also has to be some sort of buffer for infrastructure, because what we're seeing today, at least from my experience, and the water hub I'm working with, is that we have some relatively new water treatment systems that are five years old or less, and they're already failing, and they're failing in ways that they shouldn't be. As a result, there's additional funding that's required. The band is paying that out right now. If they continue to fail in the way that they do, the bands won't be able to sustain the repairs that are required to keep these water treatment systems going. It's just a matter of time.

I believe they're failing largely because of, maybe, design issues. Funding has to be in place to make these repairs and to continue to provide redundancy in our first nation water treatment systems. Specifically, right now, we have at least two communities I work with that don't have that redundancy as a result of infrastructure failure within their treatment systems. Adequate funding would certainly help, but there would have to be additional funding for emergency responses to them or at least to be put aside for that purpose.

● (0915)

Ginette Lavack: Thank you very much.

My next question is for Theresa McClenaghan.

You mentioned in your remarks that this bill has a multibarrier approach, and I'd like to hear you expand on that, please.

Theresa McClenaghan: That's critical for safe water. Justice O'Connor found, and the treatment industry widely recognizes, that you need to have multiple things, one after the other, that can prevent a tragedy.

You start with protecting the source. You make sure you have a good strong distribution system. You monitor for that. You monitor the water coming in. You monitor the water going out of the tap. You make sure your operators are trained. You make sure you have standards so people know what they're actually testing for. You make sure that there's some way of advising the public if there's a problem with water, and that you have an emergency response.

Of course, funding underlies all of that, I would agree. A multibarrier approach is really critical, and we were very gratified to see that it is in this bill, and it needs to be in this bill.

Ginette Lavack: Thank you.

You mentioned that you work with first nations on source water protection planning. I'd like to hear you, if you can, expand a little further on what exactly that incorporates in terms of the planning that you do with first nations. Is that reflective even in this legislation, as it is, or are there suggestions you could make there?

Theresa McClenaghan: This legislation would enable those plans to proceed to fruition. Our work was with grant makers and was very high level, but it takes resources to then address the threats that have been identified under those plans.

The Chair: That was very concise and nice.

Thank you very much, Theresa, and thank you very much, Melinda and Philip, for your testimony on this very important study.

We are going to suspend briefly to get ready for the next panel.

Thank you. *Chi-meegwetch*.

● (0915)

(Pause)

● (0920)

The Chair: We're back.

I would like to welcome our next panel. I'm going to go through a shortened version of my speaking notes.

I remind everyone that, if you're on Zoom, at the bottom of the screen you can select the appropriate channel for interpretation: floor, English or French. You've all been tested, and there's a button to select the language in which you wish to hear the questions. Please note that. You will be asked questions in English and French. Be prepared. When you're not speaking, turn your mic off so there's no feedback.

For those in the room, make sure you're wearing your earpiece if you are unable to communicate in both official languages, because we will switch back and forth between English and French. I will remind you as we go. All questions should be addressed through the chair. Thank you very much for being here today.

As you're making your comments, you will have five minutes. There are three panels, so we'll have 15 minutes. I will say, “30 seconds”. That gives you an opportunity to wrap up, finish your thoughts and do a closing. During the question and answer period, there will be lots of time to get out whatever you have written in your notes that perhaps you may not have gotten to.

I'd like to introduce our panel.

We have, as an individual, Dr. Dawn Martin-Hill, professor, indigenous studies, McMaster University. We have online by video conference Emily Whetung-MacInnes, chief, and John Brown, executive director, First Nations Advisory Committee on Safe Drinking Water. We have by video conference Greg Gabriel, chief, Penticton Indian Band.

Let us proceed with the person in the room.

Welcome, Dawn. If you need an earpiece for French and English interpretation, please put that on.

Dawn Martin-Hill (Professor Emeritus, Indigenous Studies, Royal Society Fellow, Indigenous lead Global Center for Climate Change and Transboundary Water, As an Individual): I'm going to try to put this on. I'm going to hold it, if that's okay, because of my glasses.

The Chair: That's fine. As you speak, you don't need it. Make sure you place it on the little tab to avoid feedback. When you're done, please put it to your ear because we'll go between French and English.

You'll note that underneath your microphone here there are channels for English and French. Make sure it's on English. You've been speaking English.

Please proceed, Dawn, with your five minutes of testimony.

Dawn Martin-Hill: I thank you.

I'm back here again. I was here for the other bill. I just want to highlight that most of what people have already talked about doesn't need to be reiterated by me regarding the need for stronger language around human rights.

The way I'm coming at this is through UNDRIP, the Intergovernmental Panel on Climate Change, as well as the TRC, and how the global recommendations for indigenous people align locally.

Part of what I'm concerned with is what our prior speaker addressed and what the community has identified. When I started the Ohneganos research project many years ago, I went to the water treatment plant. I went to our operators first. I took our engineers, our biologists and our medical team. We had a psychology team and so on. They were the first frontline workers. Then we went to the environment office, to fish and wildlife, and so forth.

It became abundantly clear early on that there is not enough capacity building in the STEM fields in general and just in the ability for our people to engage in environmental sciences and water science. I heard from the community and knowledge holders that we are in a huge deficit.

I've been here before. I was here 25 years ago when we didn't have medical doctors. I worked diligently over 20 years to create a pathway through CIHR and the indigenous health institute to do that. It was very clear that health was directly related to water, as in Grassy Narrows and in many other situations across the country, including Six Nations.

I'll just speak to that point, since other things have been covered so well by so many others.

Six Nations is one of the largest in population, with almost 30,000 members. We are located near and surrounded by cities: Caledonia, Hagersville, Hamilton and so on. We're also one of the highest-educated communities because we have seven universities within a 100-mile radius. We have a first nations polytechnic, which has accreditation for post-secondary. We are trying to address this gap of the lack of technicians and operators, but also protect our source water.

Again, that was mentioned. The need to protect source water is incredibly important because there are things that water treatment plants simply cannot clean out, such as carcinogens and other things that we find in the Grand River.

Also, it's reserve ground. The bill really focuses on reserve boundaries when many treaties, such as the Nanfan Treaty and others, are hunting territories. Those are all implicated or excluded from this bill. They need to be re-engaged.

When it comes to the citation on supporting operators and technicians, it's a very narrow view of the scope of the issue we're facing. Right now in Canada, less than 1% of our people are in post-secondary and pursuing any of the STEM fields that are in environment, engineering and so forth. Six Nations Polytechnic has partnered with me and I'm working closely with them to develop a research institute, so that we can begin to train more than just Six Nations people. We have the capacity. We were going to develop a number of programs that do outreach. What's happening, though, is that it's on me. I need to go out and find the money.

One thing that you may not know is that our schools do not have labs. How are we going to create a generation of people who can manage and operate treatment plants with more and more sophisticated challenges when they don't even have access to labs in our schools? One Drop funded a mobile water lab, so we can begin the literacy that he was addressing earlier, to get people interested. We have water festivals, etc.

Six Nations is doing everything it can to address the gap that the bill, in my view, narrowly addresses by only focusing on operators. You need constant source-water monitoring, which is why we're trying to develop our river institute. It is so we can bring in graduate students and our many goodwill colleagues across Canada who come to help, whether it's the summer institute or otherwise, to get our people engaged.

● (0925)

I feel like this is the opportune time to talk about the desperate need this country has to include first nations indigenous people in what we call water science and traditional ecological knowledge because we're braiding those systems together.

The Chair: You have 30 seconds to wrap up, please.

Dawn Martin-Hill: What we're teaching is in the language, and it's culturally informative using both knowledge systems. You did include indigenous knowledge, good, but you didn't put a process forward on how that might be applied, engaged with or funded.

Thank you. *Nia:wen*

● (0930)

The Chair: Thank you. *Nia:wen*.

You may use the earpiece now, because we'll switch back for questions and answers. Sometimes you'll be asked to comment on a comment, so please be prepared. Thank you.

Next, we have the First Nations Advisory Committee on Safe Drinking Water.

You have five minutes, please.

Emily Whetung-MacInnes (Chief Emerita, First Nations Advisory Committee on Safe Drinking Water): Thank you, Chair and members of the committee.

Aaniin kina waya. My name is Emily Whetung. I'm a [*Technical difficulty—Editor*] former chief of a first nation in Ontario. I'm co-chair of the First Nations Advisory Committee on Safe Drinking Water, commonly known as FNAC, an act established pursuant to 2021 safe drinking water first nations [*Technical difficulty—Editor*].

We operate under a mandate to support first nations in obtaining the funding for water and waste-water infrastructure in their communities and to provide guidance that's developing policy [*Technical difficulty—Editor*].

Marc Dalton: I have a point of order, Mr. Chair.

The Chair: Go ahead on a point of order.

Marc Dalton: The sound is quite garbled.

[*Translation*]

Marilène Gill: Actually, Mr. Chair, the interpreter is saying the sound isn't optimal. I wanted to speak for them.

[*English*]

The Chair: I'm going to suspend for a couple of seconds as we run a test again.

● (0930)

_____(Pause)_____

● (0930)

The Chair: We'll reconvene. Let's take it from the top, please. We're going to restart the clock. Start at the beginning of your notes, please.

Thank you very much, Emily.

Emily Whetung-MacInnes: Thank you, Mr. Chair.

Thank you to the members of the committee.

Aaniin kina waya. My name is Emily Whetung. I'm the former chief of Curve Lake First Nation in Ontario and co-chair of the First Nations Advisory Committee on Safe Drinking Water, commonly known as FNAC.

FNAC was established pursuant to the 2021 safe drinking water for first nations class action settlement. We operate under a court-approved mandate to support first nations in obtaining the funding for water and waste-water infrastructure in their communities, and to provide guidance that supports the federal government in developing policies on first nations water infrastructure. This includes Bill C-37.

I want to begin with a simple point: First nations should not still be fighting for safe drinking water in 2026.

For many years, first nations communities have lived with drinking water advisories, aging infrastructure, insufficient operational funding and regulatory uncertainty. Through the settlement agreement, Canada acknowledged that these conditions were unacceptable and that significant action was required to address them.

The settlement did more than provide compensation. Canada committed to make all reasonable efforts to ensure regular access to clean drinking water in first nation homes that meets applicable standards, and committed to funding the actual cost of water infrastructure, operations, maintenance, planning, training and technical support.

Canada also committed to pursuing replacement legislation following the repeal of the previous Safe Drinking Water for First Nations Act. Bill C-37 is not merely a policy initiative; it is an important component of Canada's broader commitment to first nations and an opportunity to help fulfill obligations already recognized through the settlement agreement.

FNAC supports the passage of legislation that recognizes first nations jurisdiction over water and source water. We support the development of water standards and the creation of governance mechanisms. We support the funding framework provisions, and we support efforts to establish a durable legislative foundation that will provide certainty for future generations.

While Bill C-37 takes meaningful steps, there are several areas where the legislation should be strengthened.

First, Parliament should restore clear recognition of the human right to safe drinking water.

The bill’s predecessor, Bill C-61, contained stronger language recognizing and affirming this right. FNAC has recently communicated to the minister that framing the human right to water solely through the lens of progressive realization risks transforming a legal right into a policy objective.

First nations require certainty that access to safe, clean water is a legally protected right, not simply a future aspiration dependent on political priorities. There are members of this committee who supported amendments to Bill C-61 that recognized the human right to safe drinking water. The context of this legislation has not changed, and I encourage you to support such amendments again.

Second, the legislation must align with Canada's existing funding obligations.

Infrastructure failures are rarely the result of a single problem. They arise from chronic underinvestment across the entire system: capital construction, operations and maintenance, workforce development, technical support, monitoring, source water protection, emergency preparedness and asset replacement.

The settlement recognizes that achieving safe drinking water requires funding the actual costs associated with these services. To be effective, the funding framework in Bill C-37 must offer predictable, needs-based funding that reflects actual community requirements rather than annual budget constraints. First nations should not have to repeatedly justify essential investments once their needs have already been identified through a jointly developed process.

Third, accountability must accompany responsibility.

For decades, many first nations were required to operate systems that were inadequately funded or insufficiently supported. Communities should not bear the burden of infrastructure deficiencies that arise from historic funding shortfalls or systemic failures. The legislation should provide greater clarity regarding roles, responsibilities, funding obligations and accountability mechanisms to avoid these systemic failures moving forward.

Implementation of Bill C-37 must remain first nations-led. Source water protection, governance, standards development, technical capacity, operator certification and service delivery models should continue to be shaped in partnership with first nations. Lasting success will depend not only on infrastructure investment but also on strong first nations institutions and governance systems.

Above all else, it is imperative that Bill C-37 advance quickly through the legislative process. This legislation arrives after decades of advocacy, years of co-development, a class action settlement and extensive debate in the previous Parliament. First nations have waited far too long for this bill and are counting on parliamentarians to ensure that it comes into force as soon as possible.

● (0935)

The changes to Bill C-37 that we are proposing today are not complex, nor are they controversial. However, they represent powerful additions that can strengthen this legislation. I encourage the committee to adopt these changes and to pass a version of Bill C-37 that first nations can confidently support.

I thank the committee for its attention, and I look forward to your questions.

Meegwetch.

The Chair: Thank you very much.

Next, we have Chief Gabriel.

You'll have five minutes, please.

Chief Greg Gabriel (Penticton Indian Band): Good morning.

I want to thank the chair and the members of the committee for allowing me the opportunity to speak to the committee regarding Bill C-37.

I want to start with where things stand for our community. I listened to the testimony from previous panellists. Essentially, we're in alignment with some of the issues that have already been presented.

You've received copies of the speaking notes and some of the recommendations we've brought forward in terms of where we are right now with Bill C-37. I have some questions at the end of my presentation, so I'll get to those once we get through what I'm about to present.

I want to start with where things stand with our community.

My name is Greg Gabriel. I'm the current chief of the Penticton Indian Band, which we now know as snpink'tn. I want to start again with where we've been and where things stand for our community.

Along with other first nations you've probably already heard from, we've been trying to engage with Canada, writing to Canada and meeting with Canada for a number of years now, about our drinking water needs. To be honest with you, it continues to be a very frustrating and disheartening process, not only for our community but for many first nations across Canada. It's fair to say that our people and many first nation communities are tired of waiting.

To give you an idea of where I come from and what it looks like here at home, snpink'tn, our community, lies in the heart of our Syilx nation territory, which is within the Okanagan region. Our nation is comprised of seven bands that form the Syilx Okanagan Nation. Our nation territory is unceded territory, and snpink'tn holds aboriginal title rights and interests to the lands, water and resources within our area of responsibility.

A major part of that responsibility is our *siwłkʷ*, our water. Our responsibility to our *siwłkʷ* didn't begin with Canada, the Indian Act or a reserve boundary. It comes from our ancestors and from our *captikʷɬ*, our laws.

We hold unceded title to two major lakes in the Okanagan, which we are living directly adjacent to, the Okanagan Lake and the Skaha Lake. If any of you ever visit our community in our region, you will know the beauty of the landscape, especially where the two lakes are connected to one another. The lakes are connected with a 10-kilometre linkage.

We hold unceded title to the major lakes in the Okanagan, yet we continue to struggle to secure drinking water needs for our people. We're surrounded by water, yet we don't have enough to secure water for our people who live here—and our community continues to grow. As mentioned, we live directly adjacent to the city of Penticton, and both communities are divided by the Okanagan River channel, which connects our two lakes.

● (0940)

The Chair: You have 30 seconds, Chief.

Chief Greg Gabriel: I was hoping to have more time, but we provided our comments on Bill C-37.

It originated, actually, in 2015. If we consider the timelines, essentially from the 2015 clean water legislation to the 2013 Safe Drinking Water for First Nations Act, the class action settlement signed in 2015 and now Bill C-37, the pattern that is recognized during those time periods always speaks to continuing engagement and consultation. That's where we are right now. Given that we're continuing on this engagement and continuing on with consultation, where do we go from here? Where do we go now?

The Chair: Thank you, Chief.

Chief Greg Gabriel: The clean water class action settlement set aside $8 billion to fix first nations water issues. Where did those funds go? Who can answer that?

The Chair: Chief, we're going to go to the question and answer period, which will give you plenty of time to continue with your remarks and thoughts. Thank you very much. I have visited your territory. It is very beautiful. *Chi-meegwetch*. Thank you very much for your testimony.

We're going to switch now to the question and answer period. We welcome MP Helena Konanz.

Please go ahead. You're going to have six minutes to start. Thank you very much.

Helena Konanz (Similkameen—South Okanagan—West Kootenay, CPC): Thank you so much, Chair. I appreciate sitting around this table today on a very important subject.

My questions are going to be for Chief Gabriel. I'm actually from Penticton, as the chief knows.

I'm glad to be at this table with you today, Chief.

I just want to mention to the committee that Chief Gabriel is an incredible leader and advocate, not only for the Okanagan communities and his community—PIB or Penticton Indian Band—but also for the communities around the Okanagan.

You could especially see that during the recent fires. I want to thank you, Chief Gabriel, for stepping up for your community and everyone in the Penticton Indian Band and for the leadership that you showed during those fires. It was noticed and welcomed by everyone who lives in the Okanagan, especially in Penticton, Summerland and south Okanagan. Thanks again, Chief.

I know you had more to talk about that you wanted to mention in your presentation. I have a couple of questions for you also, but is there something that you'd like to further mention that was extremely important? I could tell you had more to say.

● (0945)

Chief Greg Gabriel: Yes. Thank you for that, Helen. It's good to see you again, and I appreciate your speaking to me directly.

I wanted to also emphasize, getting back to the current situation with our community, that our current water supply source is drawn from two groundwater wells. Our engineers have studied that, and the results are now showing that because our community continues to grow, we are getting to the point where we will not be able to address further growth. We have more homes to build. We have two schools. We have community facilities. It's becoming critical.

One of the things that I wanted to touch on is that, because of our water shortage, we had to approach the City of Penticton, which draws water out of the Okanagan Lake, which we hold aboriginal title to. We had to enter into an interim water agreement for them to help us with water supply to address our current water shortage and crisis. Not only that, but we have to pay them for the water that they draw out of the Okanagan Lake.

Think about that. Think about what I just said. We hold unceded title to the waters from Okanagan Lake, yet we have to buy water from the City of Penticton to address our current water issues.

We have now developed an overall water master plan that we've been seeking funding for, which will address our long-term water needs. The frustrating part is that we approached the clean water class action settlement body and presented our argument. We were then directed to the other possible funding sources, including DMAF. We were told, “Perhaps you can borrow the money to fix your water situation.” I found that very infuriating, and I found that very insulting. If there were money set aside to fix our water issues, we would not be told that perhaps we should borrow the money. It's just infuriating.

Getting back to Bill C-37, there's no doubt that we need to get this legislation done, but it has to be done right. There were certain parts of Bill C-61 that were taken out and should be incorporated into Bill C-37. You'll find those recommendations in the documents we provided beforehand.

I'll stop there, but I wanted you to understand our current water crisis and our current water needs.

Helena Konanz: Thank you, Chief Gabriel.

I fully understand that we live in a desert. Water is a big deal where we live. I know that you've been working to build your own infrastructure. In 30 seconds, can you tell us why it is so important to have your own infrastructure as opposed to having to, as you said, pay Penticton for the water they draw from the lake?

● (0950)

Chief Greg Gabriel: Again, if everybody has been following a lot of the news, it's not only in our area. Right now, because of climate change events, we're experiencing severe drought conditions in the Okanagan region. Again, our aquifer and our water supply comes from groundwater wells. The only solution that I agree with is to get a water intake from the lake, which will address the needs. We are also experiencing—

The Chair: Thank you very much.

Chief Greg Gabriel: —some very volatile wildfire events and water is essential for those.

The Chair: *Chi-meegwetch*. Thank you very much, Chief. That's all the time we have.

Helena Konanz: Would Chief Gabriel be able to table the rest of the information, if he hasn't already, for this committee?

The Chair: Thank you, MP, and welcome to the committee. They have submitted a written brief, which we'll share with you as you've just come in today but you obviously would like to read that. Thank you.

Next, we have Lori for six minutes.

Lori Idlout: *Qujannamiik, Iksivautaq*. Thank you, Chair.

I'd like to direct my questions to Professor Dawn Martin-Hill about achieving a rights-based approach to addressing water. I'm going to relate my questioning to previous work that's already been done in Parliament regarding a rights-based approach and progressive realization.

I'm not too sure if you're aware, but the 2019 National Housing Strategy Act includes progressive realization. During the debate or the study on that bill, there was a witness, Professor John Mark Keyes, from the faculty of law at the University of Ottawa. He talked about how the government's goal of a rights-based approach needed to have some things in it, and that included making sure that the issue had been addressed, that it had been brought up and shedding light on the issue, which at the time was housing. For us today, it's water.

The second component is that there's been research on the issue as well as how to address the issue. I think we did that, as you've mentioned, in the previous Bill C-61, and we are doing it now again.

The third part, which I would love your response on, is encouraging action to address the issue. That, to me, includes making sure that there's accountability and making sure that there are roles and mechanisms.

I wonder if you could respond to whether the creation in clauses 39 and 40 of the first nations water commission is adequate to ensure that there are accountability mechanisms as mentioned in previous work by this Parliament.

Dawn Martin-Hill: Thank you for that. I'll try to answer the best I can.

Having a centralized body is always good, but there's a lot on the ground that isn't being addressed. Sometimes again, as was mentioned, things come to Ottawa.... For example, Six Nations is surrounded by cities and is a highly mobilized community, and we have to buy our water. We didn't fit the boil water advisory because we used our money from other revenue to build a water treatment plant, but very few homes have access to that piped in water.

On the other side of that, 17% maybe have it piped in. If they were to pipe in all of that water, where's the waste treatment plant? That's $55 million or $60 million right there. Who built the waste that's currently at Six Nations? It was Paul General, who said he was 16 years old and had to go dig some holes. That's the level of engineering happening in many of our communities.

While it's good to have a commission and oversight, there need to be bodies that are regional and understand the differences between what Six Nations is facing, which is encroachment, a burden that few people have experienced, versus colleagues who are in the north or Inuit. They have very different, vast issues, and I don't see one body really being able to assess, on the ground, the issues that are facing so many first nations.

Six Nations isn't under a boil water advisory, so we don't fit and we don't get any money. On the other hand, it costs me $90 to have my waste pulled away, and I pay $200 every two weeks to have water trucked in. That's all to have access to water, so the financial burden falls on us. That's completely invisible to somebody in a commission.

These are the problems and the gaps we were hoping to address that the bill could address if it was strengthening the language around having sources in the communities related to the larger body. Right now, there's just a vast ocean of non-action.

● (0955)

Lori Idlout: Could you use your time to make some recommendations on what you're speaking to, as you did with Bill C-61, so that during this study we can consider them? What would you recommend for Bill C-37?

Dawn Martin-Hill: For my recommendation, again, I'm taking.... We've done climate change studies and we've had modelling done on Six Nations. We know what's happening in this country, and what we're going to be facing in the next 50 years is somewhat terrifying, which is why I needed psychologists on my team. How do I release these findings without doing harm to a young population that already has suicidal ideations, as is well documented at the UN level?

I think the recommendations are, first, that we need to have some gender-conscious language in the bill.

As you know, often women are the ones on the front lines of a lot of water issues, but they rarely get into the rooms where decisions are made. Examples are in the maternal health study we did, where the wound care.... I had a family member just go through this after a C-section. She was in and out of the hospital because of the contaminated water she was bathing in. There are all of these hidden impacts.

We are in and out of emergencies and not getting anywhere. People don't realize the day-to-day anxiety and level of health impacts of not having access to clean water, so my recommendations are to make sure you have a gender-conscious bill.

When I went to South Africa, they ensured that there was a 50%—

The Chair: Thank you.

Dawn Martin-Hill: —representation of women at any of these land-based, water-based decisions, which I thought was brilliant.

Another one would be education. Education can play such a key role, as you saw with COVID. We have a crisis. It's a water crisis, yet there's this ocean again between what I'm doing, when I have to run out and get money for my community—

The Chair: Thank you, Professor. We're going to have to move to the next questioner, but thank you very much for that.

[*Translation*]

Mrs. Gill, you have the floor for six minutes.

Marilène Gill: Thank you very much, Mr. Chair.

Thank you to the witnesses for being here today and helping us with our study of the bill.

Ms. Martin-Hill, I'd like to ask you a few questions about the gender issue you raised. You may have talked about it during the study of Bill C-61, but, as mentioned earlier, we unfortunately have to start the process over again. I say “unfortunately” because studies take a long time.

Can you add to the recommendations to improve the bill in this regard?

[*English*]

Dawn Martin-Hill: I think the primary recommendation would be that we have human rights clearly spelled out. We can't move forward and gain the trust of first nations if it isn't a basic human right. That's number one. That's the priority.

Number two is that it has to move beyond technicians and operators.

[*Translation*]

Marilène Gill: I'm sorry, I don't mean to cut you off. Of course I want those recommendations, you can talk about anything, but I was talking about one aspect that hasn't been talked about yet: the gender issue. You talked about women, for example. I wanted you to remind us about the issue of women. Of course, you can talk about these other recommendations as well, but my question was mainly about gender-related recommendations.

Thank you very much.

[*English*]

Dawn Martin-Hill: Thank you.

I would add making sure that youth and indigenous women are represented at these bodies that are making decisions about water and source water, because they tend not to be in the rooms that I've been in. It isn't just indigenous women when it comes to some of these matters. We must have clear language to ensure that indigenous women who have a spiritual and cultural connection are represented. Our first environment as a human is in a woman's womb in water, so our teachings are very clear across the board.

We don't have any language in here at all that addresses the inclusion of women. We have some language around capacity building and youth, but a conscious effort to include women would be a very clear sign that we managed to get into some of the decisions that personally affect our mother care and our homes. We're on the front lines of that lack of access to water, yet those stories....

My thinking as a woman—and this is understood with indigenous people—and what I tend to look at as a researcher are very different from my male colleagues. It's just a fact of human nature. It's not bad or good. It's just different.

I don't see any language in here that addresses the inclusion of women in decision-making, particularly when it comes to source water and management.

● (1000)

[*Translation*]

Marilène Gill: Thank you very much.

My next question is for you again, Ms. Martin-Hill.

You also talked about traditional knowledge in your opening remarks. Obviously, on the one hand, we're talking about culture when we talk about the importance of the relationship between women and water and the role of water. On the other hand, there's knowledge and science. You're also a researcher. I would like to know if there are elements that should be taken into greater consideration in terms of the traditional knowledge you mentioned.

[*English*]

Dawn Martin-Hill: Thank you for that.

Indigenous women I work with across Canada are really focused on water. In a study we did—and it's in our publications—women on different reserves put water as a priority across the board, whereas it was very low on the priorities of their male counterparts. Again, it's because of that mother work. When you run out of water and you can't bathe your children, that becomes a life experience that sometimes our male counterparts don't have.

It's a matter of how we approach the world. As an example of how we could include traditional knowledge, right now, I've hired junior knowledge holders and a grandmothers council, and they govern all my research. There are ways to include women by creating these councils, by creating a traditional knowledge or indigenous knowledge....

I never had my scientists disagree with my knowledge holders. They were always excited to work together. I feel that we're in a moment when we could really add to science in water management, monitoring and care if we build capacity.

Most of the people I'm working with are women. I'm getting them into the field, and they're bringing traditional knowledge and language. They thought science and water science were out of their realm. I'm making sure I'm building that pathway through Six Nations Polytechnic, but there are many ways to encourage women's involvement and capacity building through education grants, scholarships and CRCs.

[*Translation*]

Marilène Gill: In fact, I also would have liked to know if something could be included in the bill about this. Obviously, it's in the summary, just like the issue of women and their role. However, is there anything else that should be added to the bill to strengthen the element of traditional knowledge?

[*English*]

The Chair: Professor, you will have 20 seconds to answer that, but if you can't answer it in 20 seconds, please put it in writing.

Thank you.

Dawn Martin-Hill: I will put it in writing for sure. I'll make a clear argument on how we could make the inclusion of women clearer and stronger in the bill, because right now it's vague and easy to overlook.

The Chair: Thank you very much.

Next, we have MP Morin for five minutes, please.

Billy Morin: Thank you, Chair.

Thank you again to our guests in this round. I want to go to Emily Whetung.

The initial testimonies have spoken about the human right, the infrastructure and the costs. I'm not downplaying those, but you brought up one that I don't think has been brought up enough, and that's accountability. You mentioned accountability on roles and strengthening this legislation in terms of holding the government to account.

Can you expand on and summarize what you would like to see on accountability?

Emily Whetung-MacInnes: I can certainly start that, and I'm going to turn to my colleague John Brown for any additional context that we need.

For a long time, the Canadian government has taken accountability for indigenous nations and communities in a very paternalistic relationship. With that comes the responsibility to provide the necessities of life, including access to clean drinking water. What we're looking for is that long-term commitment to fund the actual cost of drinking water in first nations.

John, did you have anything to add to that?

● (1005)

John Brown (Executive Director, First Nations Advisory Committee on Safe Drinking Water): When it comes to accountability, one important aspect of the settlement is the commitment dispute resolution process, which is built into the settlement agreement. It is a very powerful tool to hold the government accountable with respect to its commitments under the settlement agreement, one of which is to fund the actual cost of adequate access to clean drinking water that meets specified standards of quality and quantity.

Billy Morin: Very good. Thank you.

It reflects even on CFS files, Jordan's principle and some of the troubles the government finds itself in. Dispute resolution seems to have been forgotten on some of the initiatives that have rolled out over the last number of years.

I want to go to Chief Gabriel.

You ended your initial testimony with a very important statement, which was that there was a commitment of roughly $8 billion in the past. I believe with Bill C-37, what's being floated is around $4 billion as the largest, single commitment when it comes to water, but you seemed a little frustrated in terms of where that money goes.

I have visited your community. You mentioned working alongside the City of Penticton. I understand that there's a level of a good relationship there, in that you want to see water flow happening together regionally in a safe way in order to combat fires and get it to homes on the reserve and have everybody in the region work together.

As you mentioned, your first nation is not that far from the source water itself, the lake. How have you seen some of the funding roll out when it comes to the $4 billion? In the past, has the government been accountable on some of the things you want to see for your community, which is even combatting fires right on the front lines?

Chief Greg Gabriel: Thank you for that. That's a very good question.

As I mentioned earlier, our engagement with Canada in trying to address this critical water issue has been very frustrating and continues to be frustrating.

As I mentioned, we have put together plans. We've developed our overall water master plan to address our long-term water needs, which will require our own lake intake, similar to the City of Penticton. That will absolutely address our needs and growth in future generations. Right now, we have a subdivision that is being challenged. We're being challenged as we build more homes, because our current water supply is struggling to meet that demand.

Again, I was very hopeful that with the class action water settlement announcement and with all the money that was sitting there, we would finally be able to address our water crisis, but the bureaucracy that was created to provide access to those funds has been so very challenging. Again, we're now being told that perhaps we should consider borrowing the money, which just doesn't make sense to me.

The Chair: Thank you very much, Chief.

Thank you, MP Morin, for the questions.

MP Lavack, you have five minutes, please.

Ginette Lavack: Thank you very much, Mr. Chair.

We're talking about funding, and I want to continue down that line, because there has been a lot of work and a lot of investment in this space over the last number of years. Attached to this legislation is $4.6 billion of funding. What I can share with the group in my role as parliamentary secretary is that nearly $1 billion of that money is dedicated to supporting projects that are going to repair, upgrade and replace decentralized systems, such as wells, cisterns and septic systems.

Emily, with respect to this kind of funding, how do you think the funding around decentralized systems can help to support the provisions in this clean water legislation and support communities in their goal of achieving settlement agreements?

● (1010)

Emily Whetung-MacInnes: I think the funding is absolutely necessary. Early on, some of the conversations we had historically were around whether or not decentralized systems would be covered by the funding, so I think this is a critical piece.

However, the class action settlement committed to the actual cost of building, operating and maintaining clean drinking water systems, and I think we cannot lose sight of that. It doesn't matter if it's $1 billion or $4 billion; it is supposed to be the cost to build and maintain clean drinking water systems for first nations.

John, did you have anything to add to that?

John Brown: No, thank you.

Ginette Lavack: Thank you very much for that.

I would like to turn to Dr. Martin-Hill for my next question.

I find really interesting your testimony and what you're offering in terms of the gender lens on this legislation. I'll be excited to read the recommendations and things you might propose. There are portions of this legislation that talk about the idea of co-development, for example, around the funding framework.

I wonder if you might speak to the possibility that through that funding framework, we may look beyond simply the operators and the training of operators and maybe go further into the education system, as you've mentioned. If there's an opportunity to really co-develop that funding framework, there might be an opportunity to discuss and to gear some funding toward that kind of an initiative that really comes and supports this. Could you maybe speak to that?

Dawn Martin-Hill: I'll give you one example. In any of the research I do, the data I collect goes to the Six Nations environment office. When we designed our education curriculum for water-based, land-based learning—with Cornell, University of Michigan, McMaster and others—at the polytech, it was data she needed. There are ways I see.... That capacity development and the ability to support source water, monitoring and developing labs so that ISC will actually come out and take care of some of these issues, these are all related.

I feel like, in the bill, you're building a hospital and you have the front-level physician, but you don't have the surgeons or the other folks needed. I feel like it's just really missing an opportunity, because, as we know, climate change is going to create challenges if you're not monitoring or figuring out ways to mitigate climate change, droughts and flooding. You're looking at it from a very narrow lens. To broaden it, there are ways you could work across the board with other institutions, particularly those that don't fund a lot of indigenous research, to encourage that. A lot of it could be gender-oriented. Otherwise, water impacts women differently. That could be tailored in the language for how this is addressed.

Leaving it vague means you're going to get the status quo and the same kind of narrow view of “we just need operators”. No, we don't. They will tell you they enjoy us doing a lot of the heavy lifting, but capacity building and generational planning all matter. Right now, none of that infrastructure to support water treatment plants and waste management is really there. We're going out, doing it ourselves and getting grants from NSERC, but most communities can't do that. We need to put that language in there.

That follows the TRC's calls to action, so it's not as if you're doing something brand new. You're just including some of those calls to action within the bill.

The Chair: Thank you very much.

Our last question and answer will be with Madame Gill for two and a half minutes, please.

[*Translation*]

Marilène Gill: Thank you very much, Mr. Chair.

I have one last question, somewhat along the same lines as the last questions, about whether certain parts of the bill are weaker.

You talked about climate change. We just talked about it again.

You talked about the issue of psychologists and young people experiencing a great deal of distress. I think we can indeed talk about distress.

What could be done about that in the bill? Obviously, I'm making a connection between climate change and the water issue. I think you or one of the other witnesses, Chief Gabriel, talked about the drought. What can be done in this case?

● (1015)

[*English*]

Dawn Martin-Hill: I will answer quickly. I know we're running out of time.

We made sure that the information we were giving about climate change.... We developed, for example, the mobile water lab. We made sure that there were positive small actions to give people hope because what we heard, terrifyingly, over and over again, was an absolute hopelessness because of what they're seeing on social media—that time is running out. They're already distressed, and you're adding.... We didn't want to add more distress by giving them the horrific results we found in their tap water without getting a solution in place first to mitigate some of that.

Again, I will go back to land-based and water-based learning. The students want it. The engineers want it. The think tanks want it, as do the grad students. They all really want to work with traditional knowledge and to co-create and braid knowledge. It's not being supported by universities or by....

Six Nations Polytechnic is trying to find the money. We're going to One Drop. If there were funding set aside to make sure these are supported—meaning youth and capacity building—under that umbrella, I would then bring in the minister of education and others. There are ways to support that mitigation. It is by empowering them and by knowledge, which we all know to be true. It's giving them knowledge to change that scenario.

We have 23 waste-water treatment plants coming at us. Getting our students into the water was not an easy task because they know that one fact. We had to mitigate it, so we created a summer institute and showed them that there is some clean water here. Now we need to clean up the Grand River.

It's just putting mechanisms in the bill to enhance what you have under capacity building and indigenous knowledge and to make it more clear. I'll put it in written form and send it tomorrow.

[*Translation*]

The Chair: Thank you very much.

[*English*]

Thank you very much to all of our presenters today. It was very informative, and I know the analyst was keeping great notes and typing a lot. Thank you all so much for your testimony.

Do I have permission to adjourn? The meeting is adjourned.

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