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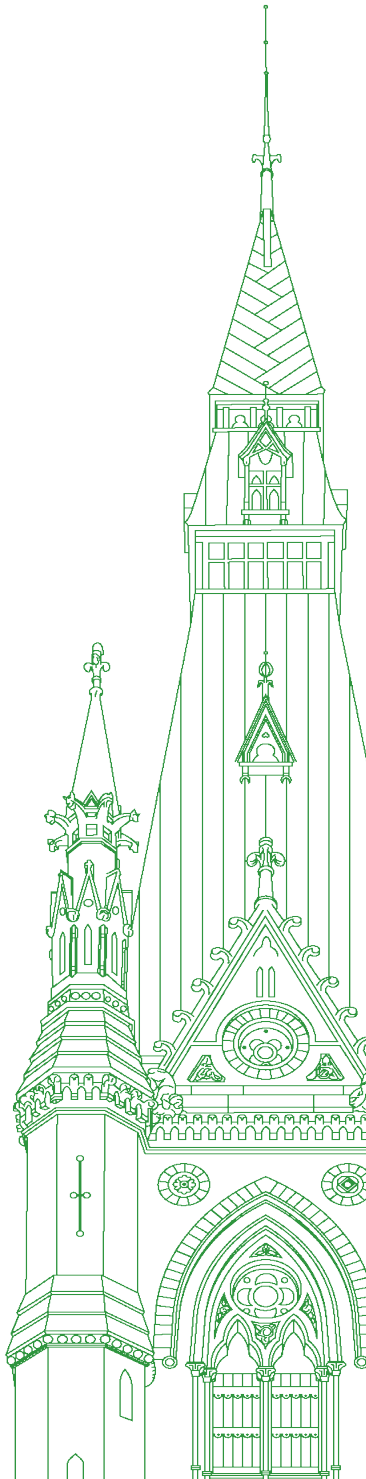
Standing Committee on Indigenous and Northern Affairs

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Chair: Terry Sheehan

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● (1540)

[*English*]

The Chair (Terry Sheehan (Sault Ste. Marie—Algoma, Lib.)): Welcome. We were slightly delayed because of the vote. It has been 10 minutes since the vote, so we can proceed. We do have quorum and, I believe, most people are here, so I'm going to call this meeting to order.

Welcome to meeting number 46 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. Thank you for sharing your land with us today.

Pursuant to the order of the House on Friday, October 9, 2026, the committee is continuing its study of Bill C-37, the 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 by using Zoom. Before we continue, I'd ask all in-person participants to consult the guidelines written on the cards on the table. 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 again for the great job all of you do.

You'll also notice a QR code on the table. You can click on that to see a short video that demonstrates how to use things.

As well, I want to make a few comments to 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 to activate your mic, and please mute yourself when you are done speaking. For those on Zoom, at the bottom of your screen you can select the appropriate channel for interpretation: floor, English or French. For those in the room, you can use the earpiece and select the desired channel. Questions will be asked in French and English. We'll move quickly, so I suggest leaving your earpiece in so that you can keep up. I'd like to remind all witnesses that committee members may ask questions at any moment. That's why you want to keep your earpiece in and make sure you have your language selected, as well, on Zoom.

I remind you that all comments should be addressed through the chair. For members in the room, you will have your opportunities to speak, and I will call the order for the different folks.

Without further ado, I'd like to introduce our first round of panellists.

We have, as an individual, Clayton Leonard, senior counsel, JFK Law, appearing by video conference. Welcome, Clayton.

From the Anishinabek Nation, we have Grand Council Chief Linda Debassige. That's not far from my riding. We're neighbours. Welcome, neighbour.

From the Council of Canadians, we have Jessica Cheung, water and climate campaigner, appearing by video conference. Welcome.

You'll each have five minutes to speak. When you have about 30 seconds left, I'll say, “30 seconds”. That way you can wrap up what you're thinking. If you don't complete what you have in your notes, you'll have the opportunity to get that out during the question and answer period. As well, we do have a copy of your speaking notes that we can review and reference. Thank you.

Clayton, you have five minutes. Please begin.

Clayton Leonard (Senior Counsel, JFK Law LLP, As an Individual): Thank you. I welcome the opportunity to speak on this important issue.

I'm going to focus on what, in my view, is the single biggest flaw with Bill C-37, and that's the removal of the recognition of the “human right of every individual on First Nations land to have access to clean and safe drinking water”. As the committee likely knows—some members are new—that was in clause 3.1 of former Bill C-61. It has now been replaced by an aspirational statement that, eventually, Canada will get around to realization of this right.

I would anticipate that, in her government's defence, the minister would say that clause 26 commits Canada to make its best efforts to ensure access to safe drinking water is provided to first nations, but I think the key phrase to focus on there is “best efforts”.

I want to give the committee a real-life example of what that's meant for one first nation that is not out of the range of normal. In 2010, Canada conducted a national engineering assessment, a very thorough look at systems across the country. Each nation received their own report.

For Ermineskin, the report said that the treatment plant, which was built in 1970, badly needs to be replaced. They don't have enough water. They're trucking in 24% of their supply. Every single rural well tested failed to meet drinking water guidelines. The needed investment to fix this issue is $90 million. The nation was very excited by this. They thought it would be a call to action. Canada did nothing after that.

About 70% of the homes at Ermineskin are rural. I've included in my speaking notes, so they will be translated and provided to you, drinking water records from 2015 to 2025. You'll see that over half, 258 out of 500 homes, have lived with near-chronic drinking water advisories in this community. Those are ISC records that I've provided to you.

It doesn't really tell the human story, though. I've also included a Facebook post from three years ago by a member, in which she recounted how gracious her neighbour was when she had to go over there to have a shower, wash her baby's bottles and do her laundry. She provided a picture of the water coming out of her tap. It's really awful. It looks like oil, not water.

I've also included a map, which shows the location of the drinking water advisories over the last 10 years. It gives the committee a very good sense of the geography of what this first nation has been living with.

Most recently, ISC has engaged with Ermineskin to do a feasibility study. It was completed in 2019 and was updated recently. It found that groundwater supply, which is all that's available, is not a viable option, and that what's needed is pipe distribution of treated water to all of those 500 rural homes. The cost is $120 million.

Since 2010, Canada's best efforts for this nation have been $3 million for cisterns and, only recently, approval of a $29-million investment, which, taken together, is approximately 26% of what Ermineskin needs. That's Canada's best effort.

I would like to make really sure that this is on the record. I worked closely with this committee, with MPs Lori Idlout, Jaime Battiste, Brendan Hanley, Jamie Schmale and Bob Zimmer, who all supported, within the former version of the bill, the recognition of the human right to safe drinking water. I know that first nations across the country will want to know whether you still support that, and, if not, what are your reasons?

Thank you.

● (1545)

The Chair: Thank you very much.

Next, we will call upon the grand chief.

Grand Chief, you have five minutes, please.

Grand Council Chief Linda Debassige (Grand Council Chief, Anishinabek Nation): Thank you, Mr. Chair and members of the committee. My name is Linda Debassige, and I serve as grand council chief of the Anishinabek Nation, which supports 39 first nations in Ontario and approximately 70,000 citizens.

I have a background in civil engineering technology and a decade of direct in-community experience with water systems, both centralized and decentralized, and waste-water systems, including funding mechanisms.

My responsibility today is not simply to acknowledge the perceived strengths of the bill. My responsibility is to speak clearly about where it falls short. At its core, safe drinking water is a public health issue. Once this legislation is passed, first nations people will have to live with its consequences.

Safe drinking water is a cornerstone of public health. Every province in Canada has public health authorities with powers to investigate risk, issue orders and intervene when water systems fail. First nations do not have equivalent public health protections: In fact, they have none at all. As a result, water system failures quickly become health crises affecting families, children, elders, schools and communities. Accountability matters.

One of the most significant concerns we have with Bill C-37 is that Canada has retained broad discretion while transferring significant responsibilities and potential liabilities to first nations. Throughout the legislation, Canada is required only to exercise “best efforts”. The promise of clean drinking water cannot be discretionary. First nations are expected to meet standards, operate systems, manage risks and protect public health, but why is government not held to the same standard?

If a community's infrastructure fails because sufficient funding was not provided, what happens? If climate impacts require additional investments and funding is denied, what happens? If source water contamination occurs outside first nation lands and governments fail to act, what happens? If first nations are required to meet regulatory standards but have no consistent funding for operations and maintenance, what happens?

Bill C-37 provides no answers to those questions at all. It does, though, solidify federal discretion and funding limitations, and sets limits on federal liability. That is not a nation-to-nation relationship. That is not shared accountability. That is not reconciliation.

Members of this committee have asked witnesses how this bill can be improved. I would suggest that the answer is straightforward. If Canada expects accountability from first nations, there must be accountability from Canada. If Canada has funding obligations, there must be mechanisms to assess whether those obligations are being met. If disputes arise, there must be an independent dispute resolution process. If Canada commits to safe drinking water, that commitment must be enforceable, not aspirational.

Another important concern relates to source water protection. Many discussions about water focus on treatment plants and distribution systems, but safe drinking water begins long before water reaches a tap. It begins with healthy watersheds, aquifers, protected lakes, waters, wetlands and headwaters. First nations understand this because we have stewarded these lands since time immemorial, yet source water protection remains one of the weakest implementation areas across Canada. First nations living in one of the largest freshwater systems on earth continue to face water insecurity and, with both the federal and provincial governments looking to fast-track major projects, federal and provincial source water protections will be weakened or wiped out completely.

Protecting source water must be more than a policy objective. It must become a practical and enforceable obligation shared by all levels of government, including our first nations, who have never ceded, surrendered or given up their inherent right to water. It ought to include treaty and traditional territories as well as aboriginal title lands. Aboriginal and treaty rights are not confined within reserve boundaries.

Finally, I want to address the discussion regarding the human right to water. I have heard references to international human rights instruments and concepts such as “progressive realization”. Lawyer Michael Rosenberg said that the use of this term “has everything to do with being able to continue to fight First Nations in court and stand up and say, 'There is no right, and we have no obligations.'”

The right to clean water is protected under sections 2(a), 7 and 15(1) of the charter and confirmed in international law, but at the community level this discussion is much simpler. A right that cannot be enforced is difficult to distinguish from a policy objective. A family either has safe drinking water or does not. A community either has adequate infrastructure or does not. A government either fulfills its commitments or does not.

That is why accountability matters. This bill can still be improved, and Ottawa still does not know best. The bill must reflect first nations jurisdiction. The bill must strengthen source water protection. The bill must create meaningful accountability mechanisms. The bill can ensure that Canada is held to the same standard of responsibility that first nations are expected to meet. Reconciliation depends on it.

Meegwetch.

● (1550)

The Chair: *Chi meegwetch*.

Jessica, please unmute yourself.

Jessica, hold on.

I'm going to suspend for one moment.

● (1550)

_____(Pause)_____

● (1550)

The Chair: All right, we're reconvened.

Jessica, you will have five minutes, please.

Jessica Cheung (Water and Climate Campaigner, Council of Canadians): Thank you, Chair and members of the committee.

My name is Jessica Cheung. I am the water and climate campaigner with the Council of Canadians. I am speaking from Guelph, on the territory of the Attawandaron, Haudenosaunee and Anishinabe peoples.

The Council of Canadians has worked for four decades to keep water public, a human right, a public trust and never a commodity. I am not a rights holder. Much of what I say echoes first nations who are, including the Assembly of First Nations, the Anishinabek Nation and many chiefs. I am here on behalf of our 150,000 supporters and the many non-indigenous people who want water protected and indigenous rights honoured.

Canadians are not asking you to weaken this bill. Many of us are asking you to strengthen it. Many treaties were understood by first nations as agreements to share the land, not surrender it, and many waters were never ceded at all. As the daughter of immigrant settlers, I know we are all treaty people and we want those agreements honoured. That is the truth this bill sits on.

Water does not stop at a reserve boundary or a survey line, yet clause 6 of Bill C-37 limits first nations' jurisdiction to protection zones “adjacent” to their lands and only where provinces agree. The word “adjacent” treats water like a parcel, but water is always moving and reminds us there is no harm we make that does not return to us.

This bill is long overdue. Thirty-nine long-term drinking water advisories remain in 37 first nations communities—some for decades—because of chronic underfunding and neglect. First nations and this committee already did the work of fixing this bill through Bill C-61, and many of your 2024 amendments are missing from Bill C-37.

I'll name five. First, restore the human right. Bill C-61 affirmed that “every individual on First Nation land” has a human right to “clean and safe drinking water”. Bill C-37 downgrades that to a policy of “progressive realization”. A child under a boil water advisory cannot drink a policy. Restore the Bill C-61 language to clause 3.

Second, protect water as one body. Remove the word “adjacent” and make source water protection mandatory. Officials told you that this bill cannot compel provinces to the table, so fix that. The threats upstream are material: mines, pipelines, industrial water takings and now water-hungry data centres. Governments authorize that activity and nothing in this bill puts drinking water ahead of it. If approvals are streamlined and handed to provinces, Canada must keep its own duty to review the impacts on first nations' drinking water and health.

Third, end the contradiction. In the Shamattawa case, the Federal Court found that Canada owes a legal duty to provide safe drinking water on reserve. Canada appealed and has argued twice in court that it owes no such duty—while this committee studied Bill C-61 and again weeks before tabling Bill C-37. We urge you to press the government to withdraw the appeal.

Fourth, guarantee public funding and fix liability. Replace “best efforts” with a binding duty to fund, including operations and maintenance. The $4.6 billion announced with this bill is welcome, but it covers less than a fifth of the $44-billion gap the Assembly of First Nations has identified.

That money must build public systems under first nations control. As drafted, if Canada says it made best efforts, the Crown is shielded and first nations carry the risk. Underfunded and holding the liability, nations are left vulnerable to private companies offering to finance and run their water for a profit. This bill creates the conditions for exactly that.

Liability should rest with power—with the government that controls the funding—and must not fall on first nations water operators without the technology and resources to match. First nations did not create this crisis and should not carry its risk.

Fifth, restore co-development. Regulations must be co-developed, not merely reflected. Bill C-61 was built with first nations, while Bill C-37 was drafted without them. Build on that work.

The minister told you that Bill C-61 was written for a context very different from today's. Today, Bill C-5 lets projects be fast-tracked around the laws that protect water. Bill C-39 would cap federal reviews at one year, effectively putting a time limit on a constitutional obligation. Now, a water bill removes consent, downgrades a right and shifts risk onto first nations. The direction is clear. There are fewer checks on extraction, fewer obligations owed to first nations and fewer risks to everyday people in a time of global water poverty and climate distress.

● (1555)

The Chair: You have 30 seconds, please.

Jessica Cheung: Finally, water is not a policy aspiration or a resource to make a profit from. Water is alive. It's the element that animates us all. It's a relative to every bloodline and all life on Earth. You would never sell your grandmother.

Thank you.

The Chair: Thank you very much, Jessica.

We're going to the six-minute round of questions.

First off, we have MP Schmale.

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

Thank you to our witnesses.

I'll start with the grand council chief, if I could.

You've been here many times at this committee. I think we should make you an honorary member and have you sit around the table, because your input is quite valuable and we always enjoy having you here.

You spoke in the previous Parliament to the former legislation, and you're back again. There are a few different words each time, but there are good suggestions nonetheless.

As you know, in this legislation—I don't have to tell you this, but it moves to my question—there's wording around getting to a standard, which I think is a good thing. How it's developed seems to be some part of the contentious side. We have an envelope of money set aside to hopefully start addressing some of the inequalities that exist with the boil water advisory.

Two things have come out. Again, you were here for the last piece of legislation. One thing is that it was confirmed by officials over and over again that the government didn't need Bill C-61 to fix the boil water advisories and the water issues on reserve. It could actually have just done it.

The Prime Minister promised years ago that he would end drinking water advisories within his first mandate. That has flown by. Now we see that indigenous spending has gone up by about $30 billion, which is seven times faster than the overall federal spending from 2015 to 2025, yet the conditions on reserve, according to Stats Canada, do not have an equal increase in quality of life.

Having said all of that, are you confident...? Obviously, in your opening remarks, you stated that you're not confident this legislation will get you to the finish line either.

● (1600)

Grand Council Chief Linda Debassige: Thank you for your commentary.

When we look at the entire envelope of first nations funding from, I would say, an Ottawa perspective, you look at a big, bulk number. There are over 600 first nations across Canada. A lot of the funding is used in many sectors.

When it comes to water and waste-water funding, there are limitations. I can agree that if there is any political will whatsoever, there potentially wouldn't be any boil water advisories today with the appropriate funding and mechanisms in place.

Like I said in my earlier commentary, in my experience in the community on reserve and serving my own nation, I have really seen the limiting aspects of that funding. We've worked through ridiculous processes full of bureaucracy that added to much delay because of the processes that are in place through minor capital applications and so on and so forth. There are a lot of expenditures up front and we wait a long time to have the project actually completed.

Many of the iterations that most communities send to the government for analysis come back. The government wants to nickel-and-dime first nations, and then out come, for example, water treatment plants that have had corners cut because of the cost.

You raise a really good point. I actually have some facts here. I would say the response from ISC is really, from a crisis perspective as well, to throw money at a problem because people are going public with things. A lot of the time, yes, definitely, financial resources are needed, but the other pieces we're not talking about are the protection of source water from groundwater aquifers and contaminated lakes that were left by industry and, sometimes, terrible contractors. I will say that.

What happens is, when the government announces significant funding for first nations, you have all of these contractors and people coming out of the woodwork who can help, but it's only because they see dollar signs. There hasn't been a real effort to look at who, from a contracting perspective, can provide the best services or creates the best water treatment plants or waste water treatment aspects.

There are also existing archaic policies within the department. For example, my community required an aerated waste water treatment system, but it wasn't in the policy, so they were saying we had to go with cell lagoon systems. I said we have no land, unless they're going to expropriate it from a neighbouring municipality. It took, I think, over three years of me arguing with them to have them finally agree to an aerated lagoon system.

Those are just examples.

● (1605)

Jamie Schmale: You mentioned a few things that we try to bring up often, including the amount of bureaucracy. I don't need to tell you this, but with Indigenous Services Canada, even though it's in their mandate to put themselves out of business, they've actually grown to almost 9,000 people within that department. They manage a huge number of programs, which, as you said, seem to swirl around the cotton candy machine here in Ottawa, but when it comes to getting resources to the communities, the department seems to be a little slow. Eventually, as you said, the scraps that come to you don't actually solve the problem.

When you were talking about contractors, it reminded me that the government's indigenous procurement program is still a disaster in itself. Had the government actually put some focus and energy into that, using the knowledge that exists within multiple organizations, it might have been able to fix that and be able to work with indigenous contractors to address the issues going on as we speak—

The Chair: Unfortunately, we're out of time.

You could put that in writing back to the committee.

[*Translation*]

Ms. Lavack, you have the floor for six minutes.

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

[*English*]

Thank you so much to all of our witnesses here today for their testimony on this very important and long-awaited piece of legislation that we are here to study and make better so that we can finally do the job of getting clean and safe drinking water to first nations. I think we all have that intention at heart, and we want to see this work progress in the right way.

Grand Council Chief Debassige, thank you sincerely for your incredible leadership in this space over a number of years and for your continued advocacy. It is tremendous work that you're doing in this space, which we can all benefit from and learn from, so thank you for that.

This piece of legislation has significant elements to it. It builds on work that was previously done and the previous consultation that was done across the country. We're trying to bring the best of that forward in order to have legislation that is strong and really supports first nations where they are and in the spaces where they live.

In the springtime, we announced funding that supports this legislation. There's $4.6 billion for water infrastructure and operators specifically. I am able to indicate, in my role as parliamentary secretary, that a portion of those funds is going specifically to the operator portion for the building of capacity on first nations, which I think is a really critical piece of all of this.

It's one thing to fix systems and inject money into the parts and pieces, but if we don't have those operators and the capacity to do that in the community, and to safely do that, we're at a loss as well. The fact is that we are looking at how we manage that, but a part of it is that we want to co-develop the framework. We need to hear from first nations. We need to have them at the table to better understand how those dollars should be spent and in what ways so that we have adequate, predictable and sustainable funding in this space that is really needs-based.

Could you elaborate on your view? How do you see the importance of that adequate and predictable funding? What do you think that co-developed funding framework should consist of and look like?

Grand Council Chief Linda Debassige: I will say, in relation to the spring announcement and the attachment of $4.6 billion, that's very cute. I'm actually at an assembly with my first nations just down the street here in Ottawa, and there is a lot of concern that a lot of the fluffy words and dollars attached to the bill are an exchange for the weakening of the bill and the lack of consistent statutory funding, coupled together with the language around “best efforts” and words that have been changed from “shall” to “may”. Really?

I don't believe the timing contained within the bill to achieve some of these things will address the current situation as it relates to first nations water and waste water infrastructure going forward. In fact, there will be complexities in the co-developing of any funding framework.

Right now, there's a priority-based system in place that is basically a crisis response to situations. We have to remember that nations have been chronically underfunded as it relates to drinking water for decades, and perhaps that's why this government continues to fight first nations in court. That's absolutely frustrating, and it makes it feel like our even coming to this committee is just a checkbox exercise.

I'm just being blunt and honest about it.

Co-development has its own limitations as it relates to the government definition, and words within the context of the legislation suggest that there be co-development and then that the minister “may”, coupled with “best efforts”. Canada can't go bankrupt.... We're seeing billions of dollars of investments going away from Canada, and still many of our nations suffer. In fact, I have a couple of boil water advisories within my own nation as well, and decades-long advocacy for our communities.

I think about the aspiration of economic reconciliation with our first nations while our first nations still lack support, in addition to reserve lands, to change that into economic development opportunities. In the community, this legislation is focused only on individuals, not on the community as a whole. There are already glaring gaps that I see that are not in a space of reconciliation, but are nickel-and-diming first nations away from their traditional and treaty territory or aboriginal territory, nickel-and-diming from economic opportunities in the community and nickel-and-diming....

With this legislation, it will rush. I'll use Ontario, for example. Ontario has the most stringent—

● (1610)

The Chair: Thank you, Grand Council Chief. We have to move on to the next question.

Grand Council Chief Linda Debassige: Yes.

The Chair: Thank you.

[*Translation*]

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

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

Grand Chief Debassige, thank you for being with us.

I have to say at the outset that while some of your statements were blunt, I would say the same thing to the committee. Like all the witnesses, you mentioned the major differences between Bill C-61 and Bill C-37 when it comes to human rights, for example regarding the co-development of the bill.

I'd like to hear from all three witnesses. Obviously, what we want here is recommendations on the human rights issue.

I, personally, want to do my best when studying a bill. I think we could say that for all bills, and I hope the government always wants to do its best. That just makes sense to me.

Ms. Debassige, would you like to tell us more about the human rights issue? The other two witnesses, who are taking part in the meeting by video conference, can also answer my question.

[*English*]

Grand Council Chief Linda Debassige: Unlike Bill C-61 in the last Parliament, Bill C-37 has removed the human right to safe drinking water and has replaced it with a progressive realization of that human right. I've made comments as it relates to lawyer Michael Rosenberg. The right to clean water is not optional. The right to clean water is protected, we believe, under sections 2, 7 and 15(1) of the charter, consistent with my earlier comments.

We feel that Indigenous Services Canada is justifying the use of progressive realization of a right as it is a concept that is recognized in international law, including in paragraph 1 of article 2 of the International Covenant on Economic, Social and Cultural Rights, which acknowledges that countries cannot always guarantee economic, social and cultural rights such as housing, health care and education immediately due to limited financial or institutional resources. However, states must “take steps...to the maximum of [their] available resources” to achieve the full realization of these rights over time.

The federal government is trying to use the legal principle of progressive realization to justify removing the human right to clean water from the bill. This is a misuse of this legal protection in international law, which was put in place to differentiate between resources that are available to poor and rich countries. Canada is a rich country, and states still have immediate core obligations such as guaranteeing non-discrimination; ensuring a minimum essential level of each right, such as, for example, basic nutrition, primary education and emergency health care; and avoiding deliberate retrogressive measures unless fully justified by a severe crisis.

In international law, these are applied heavily to rights like water, sanitation, work and social security, which require positive state spending and infrastructure.

I'll leave the rest of the time for others.

● (1615)

[*Translation*]

Marilène Gill: Thank you.

Mr. Leonard and Ms. Cheung, would you like to add anything?

[*English*]

The Chair: We'll be splitting two minutes and 40 seconds.

Go ahead, Clayton.

Clayton Leonard: Okay. I offer my apologies in advance, as I have to leave to catch a plane after I make this comment.

I don't mean to be too simple with this, but really, the beginning of a solution to this problem is putting clause 3.1 from Bill C-61 into clause 3 of Bill C-37.

I think anybody looking at this dispassionately based on the facts would be skeptical of clause 3 and the best efforts. I've given you some reasons with one first nation here today, but part of it is even how we talk about this as a country. To be honest, I'm irritated by and tired of talking about drinking water advisories. I don't think anyone on this committee probably even knows what a drinking water advisory really is and what it's meant to be used for. It's a temporary warning to somebody resident in a house of a problem that, if steps are taken, can be rectified. It is not meant to be the metric for the delivery of safe drinking water in a community.

On top of that, Canada has a very selective approach to this. When Prime Minister Carney last spoke to the chiefs in assembly about safe drinking water, he said there were 38 advisories left in the country. Chief Mykat from Ermineskin was sitting in the same room, and there are 100 active drinking water advisories in his community, but they don't count to ISC because they're for rural homes.

It's so important to put the human right to safe drinking water back in the bill so that the starting approach is that everyone in a first nations community has a right to safe drinking water, whether they're connected to the water treatment plant or they're in a rural setting.

Thank you.

The Chair: Jessica, you have about 30 seconds to provide a comment.

[*Translation*]

Marilène Gill: Mr. Chair, I'm going to take the liberty of saying that there will be a second round of questions and that Ms. Cheung can continue her answer and conclude at that time.

[*English*]

The Chair: You'll have a second—

[*Translation*]

Marilène Gill: It can be done in two phases.

[*English*]

The Chair: Ms. Cheung, you're probably going to get asked that question in the next round, so you'll have more time then than you will if you try to rush something now. Thank you.

[*Translation*]

Marilène Gill: That's not what I meant, Mr. Chair. What I meant is that she can take a portion of my speaking time and another portion afterwards. Actually, what I meant is that she can start answering my question.

[*English*]

The Chair: Okay, do 30 seconds now, and you're going to get a little more time after. Go ahead.

[*Translation*]

Marilène Gill: That's it.

The Chair: That's it.

[*English*]

Jessica Cheung: I'm not sure there's anything else to add. Both the grand council chief and Clayton have been so articulate and really granular in what they have talked about.

What I can add in 20 seconds is to ask, when we think of ourselves as we are in Canada as a nation, who do we want to be in this moment? What do we care about? I want to think that the government's responsibility is to safeguard its people and the people they're in partnership with, including first nations.

The Chair: Thank you very much.

MP Zimmer, please go ahead for five minutes.

An hon. member: No, it's Ms. Gazan's turn.

The Chair: Are you giving Ms. Gazan the five minutes, or are you sharing with Ms. Gazan?

Welcome, MP Gazan. You will have five minutes.

Leah Gazan (Winnipeg Centre, NDP): Thank you so much.

My first question is for the grand council chief.

The bill defines first nations lands as “lands of a First Nation that are referred to in Class 24 of section 91 of the Constitution Act, 1867 and includes water and source water on, in and under those lands. They do not include lands over which Aboriginal title is claimed by a First Nation or has been confirmed by a court.” That is a direct quote from the bill.

I have concerns about that, because they're declaring whole regions of national interest. You have talked about aquifers and source water protections. I'm wondering if you see a legislative trend between Bill C-37, the water act, and Bill C-39.

● (1620)

Grand Council Chief Linda Debassige: Together with Bill C-37, the government is pushing forward bills like C-39 to bulldoze through its duty to consult and obtain the free, prior and informed consent of first nations people. It's substantially reducing timelines and resources for consultations all while cutting critical environmental protections. Bill C-39 establishes regions of national interest with no guardrails on water pollution, gives greater leeway for dumping waste in bodies of water and creates a simple fee system, letting companies pollute water sources and harm fish habitats.

I recall, with regard to Bill C-61, that Ontario signed a letter with the Province of Alberta asking that Bill C-61 not be introduced. I can't help but recall a conversation I had with ministry officials saying they could not support Bill C-61 because they didn't have a definition of protection zone. I said, “Well, what's your definition of an economic zone? What are your protections for all these other zones? What is the definition of Canada's zones?” There was zero consultation with first nations.

Should the same thought process not apply?

I think that Bill C-37 is very much in line with what provinces are doing, specifically in the province of Ontario with Bill 5 and, now, Bill 140. Together with Bill C-39, the Ontario government is looking for feedback on new measures and on a new bill to legally enforce and give police additional powers to charge and to criminalize protests. We feel that's a direct attack on us.

Leah Gazan: Building on that, I have concerns, because it's clear even when they're talking about shared economic revenue in Bill C-39, it makes the assumption even with the loan guarantees that the government owns the land. This bill explicitly states that this government does not recognize aboriginal title claimed by a first nation or confirmed by a court.

We also know that the Liberal government has taken the Shamattawa case to court again, and they're fighting Shamattawa on whether or not they have a human right to clean drinking water.

With the government's plan to designate whole regions of national interest, limiting any sort of protection of water to on reserve only, not including aquifers and not including source water, do you think that the water crisis is going to worsen?

Grand Council Chief Linda Debassige: Yes.

Leah Gazan: Do you think that, because of the so-called progressive realization that they may or may not achieve, they'll always be progressively realizing that right? I'm thinking about communities that have been under boil water advisories for 30 years. Do you think they'll ever progressively get there with this new nation-building fast-tracking of projects?

Grand Council Chief Linda Debassige: No, I do not.

For the record, I also want to remind this committee that the definition of boil water advisories in communities are for over a year. I'd like you to reflect on your own communities or your own towns where you live. A boil water advisory is considered a boil water advisory the moment it's made, and most are oftentimes rectified within 24 to 72 hours.

The Chair: Thank you very much, Grand Council Chief.

Next on the list, we have MP Hanley for five minutes, please.

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

Thank you very much to all three witnesses for being here.

Grand Council Chief, since one of our witnesses has left, that leaves all the more time for you to share your thoughts. I appreciate your being here. I want to continue on that theme and maybe get a bit more of a personal point of view of what it's like.

You mentioned two boil water advisories, I think, in your own nation or region. Tell me more about what that is and what burden that represents for you.

● (1625)

Grand Council Chief Linda Debassige: There have been several over time.

In my former capacity as chief of my community, I also supported sister communities near my own. They all have different reasons for why the boil water advisory exists, whether it's a plant that no longer meets the capacity because the design has failed or didn't contemplate any of the 25-year capital plans or community growth projections to support the sustainability of that system. There are issues with impacts from what people are now saying is climate change, the warming of the climate, water levels going up and down and the depletion of ground source aquifers. All of those things have an impact.

As well, for some, it's really the contamination, whether it's industrial contamination, and I will even go so far as to say air contamination, which is not directly related to this, but I think you can see the connection. In some of my communities, they're finding arsenic in sap. That comes from the ground, so you can't drink the maple syrup that is made by the community. It doesn't break down through the natural process.

When we look at these things, what has always been lacking is the public health lens. Canada, ISC or FNIHB—whatever name we call it these days—deploys what it calls environmental health officers, who come and look at cisterns and treatment plants. They make recommendations, but they're not enforceable, and communities are left with that. A chief medical officer of health in different places in Ontario can make legally enforceable orders. First nations don't have that. They've never had that, and that's frustrating.

Brendan Hanley: This is just a comment, because Ms. Cheung asked what we care about.

I would say that at this committee, we do care about the commitment to clean water on first nations lands, and we do care about having long-term funding and a governance commitment in place. Certainly, I see this legislation as a pathway to get to co-developing a funding framework, setting minimum standards, closing the regulatory gap and affirming self-determination.

You've raised, very distinctly, some of your concerns with the bill, but if we look at the overall framework, do you see pathways to helping to address the outstanding inequities we have?

Since we only have about a minute left, can you also comment on the role, since you mentioned its accountability, of the first nations water commission when it's set up in helping us to achieve that accountability?

Grand Council Chief Linda Debassige: I would argue that there are policies and, I guess, aspirational documents that exist: for example, the protocols for centralized and decentralized water systems. There have been extensive reports over time, such as the Neegan Burnside report, which looked at systems from a very narrow scope, I would say, from an engineering assessment. It was very peripheral, very high level and good work that was done, but the scope was limited in terms of what the government asked for.

You're not going to know the true cost unless proper engineering assessments are done and land is considered in those assessments as well. Quite frankly, the way this is structured is very similar to what already exists today, and I say that with all due respect. I understand that many have not been in first nations communities running these systems and perhaps do not have that technical background, but that's why I'm here, which is to help to provide some of this testimony. Perhaps there is a will; however, on knowing, understanding and living the realities in community, perhaps in writing it might help, but again, you have to look at the bill in its totality, where, at the end of the day, it's best efforts.

● (1630)

The Chair: Thank you very much.

Madam Gill, you'll have two and a half minutes for the last round, please.

[*Translation*]

Marilène Gill: Thank you, Mr. Chair. Two and a half minutes go by very quickly.

I'd like to address another topic, Bill C-39. I know we're here to discuss Bill C-37. The fact remains that there has been a lot of talk about backsliding, such as between Bill C-61 and Bill C-37. That's a huge step backward. Ms. Cheung could also attest to this with regard to the whole issue of the environment.

I have concerns about Bill C-39, because the government is giving itself some pretty exceptional powers for projects of national interest. You talked about everything adjacent to reserves, such as land. Obviously, water moves. It does not stay static.

Do you have any concerns about the government's wishes as they may appear in Bill C-39? It could be in other bills as well. To a certain extent, I feel there are other threats with bills like these that circumvent or suspend laws.

Grand Chief Debassige can go first, and then Ms. Cheung.

[*English*]

Grand Council Chief Linda Debassige: I'll let her go first.

The Chair: Go ahead, Jessica.

Jessica Cheung: I'm sorry. I thought I heard her say that the grand council chief was first.

The Chair: It's both, but you're going first.

Jessica Cheung: Okay.

Bill C-39 concentrates an enormous amount of power in a single minister. Hopefully, you've been able to see the very widespread public outcry, really, in this moment, on what this could mean for so many people. It is indigenous peoples who are I think leading the charge on that, and it's also the allies, who can also see that this is a threat not just to indigenous people but to everyday citizens as well.

With Bill C-39, it means that approvals can come so quickly without any time for meaningful consultation. Really, I think this is an erosion of our democracy. Again, I call back: What kind of nation are we? What kind of government system is this? These are real questions for us to reflect on.

A large part of my work is really focusing in on AI data centres and this new kind of boom of our federal government really pushing for AI—AI for all, right? It's a huge threat to water. With these risks not closed off, what will that mean in terms of how that will risk first nations' clean drinking water and drinking water for everybody? I think this is part of that puzzle.

The Chair: Thank you very much. That brings us to the end, unfortunately.

Grand Council Chief, if you have further thoughts, please put those in writing for us. They will be considered by the committee.

Thank you very much for everyone's testimony today.

We're going to suspend briefly and welcome our next panel.

● (1630)

(Pause)

● (1635)

The Chair: I'll welcome our next panel.

I'm going to run through a few things.

As a reminder, I would ask all in-person participants to consult the guidelines written on the cards on the table. These measures are in place to help prevent audio and feedback incidents and to protect the health and safety of all participants. I think we did really well last time. I'm getting some nods over there, so let's keep that up. You can also consult the QR code card, which has a short awareness video.

Please wait until I recognize you by name before speaking. For those participating by video conference, click on the microphone icon to activate your microphone, and please mute yourself when you're not speaking.

For those on Zoom, at the bottom of your screen you can select the appropriate channel for interpretation: either floor, English or French. I know that you've all passed the sound check.

For those in the room, you can use the earpiece and select the desired channel.

I would like to remind all witnesses that committee members may ask questions in either French or English. Please take a moment now to prepare the earpiece, which I can see that you have done.

Let us begin with the Atlantic First Nations Water Authority and James MacKinnon, director, engagement and government relations.

Welcome, James.

James MacKinnon (Director, Engagement and Government Relations, Atlantic First Nations Water Authority Inc.): Thank you very much.

Before I start, I want to mention that the chair of our board, Chief Wilbert Marshall, was supposed to be here today but, unfortunately, he was unable to make it. He sends his regrets.

Thank you very much for the opportunity to provide comments regarding Bill C-37. I'll be providing my comments on behalf of the Atlantic First Nations Water Authority, a first-of-its-kind, full-service water and waste-water utility that's owned and operated by its participating first nations. We currently provide service to 13 first nations in Atlantic Canada.

The Atlantic First Nations Water Authority is a not-for-profit organization led by our participating first nations and governed by a board made primarily of member chiefs. Our chiefs have carefully established a governance framework that guides our decisions with support of our elders advisory lodge. The elders ground our work in traditional values, culture and knowledge, helping to ensure the AFNWA is not simply a copy of a western utility but an indigenous organization built by and for the communities we serve.

The AFNWA represents what is possible when long-term, predictable and sustainable funding is coupled with strong treatment, monitoring and operational standards. The AFNWA became responsible for service delivery for our communities in 2023, and we've strengthened accountability and advanced first nations control over critical infrastructure. The results demonstrate the strength of this approach. The AFNWA is addressing long-standing infrastructure gaps with more than $107 million in active or completed infrastructure projects across our participating first nations over three years.

Our long-term plan integrates asset management, risk-based capital priorities, professional operations and maintenance, workforce development and strong financial accountability. Just as importantly, our success depends on hiring, training and developing local operators who live in the community they serve, building trusted local expertise, stable career pathways and lasting capacity to deliver safe and reliable water and waste water services.

The AFNWA stands with the Assembly of First Nations and other first nations across the country in calling for Bill C-37 to be strengthened. We share the concerns regarding the recognition of human rights to safe drinking water, continued use of best-efforts language rather than binding commitments, inequitable power and source water protection, ensuring respect for first nations' rights and jurisdiction, ensuring meaningful engagement and free, prior and informed consent, liability protection and the need for adequate, predictable and sustainable funding.

While much of the testimony before this committee will appropriately address these broader issues, our comments will focus on what is needed to make Bill C-37 work in practice, which are clear standards, adequate and sustainable funding, effective enforcement, a strong first nations workforce and support for both centralized and decentralized systems. These are practical foundations needed to deliver the services that AFNWA delivers.

There is currently a regulatory gap for water and waste-water services on first nations lands. Bill C-37 would establish minimum national standards while affirming first nations' jurisdictions to make their own laws for these services. Drinking water and waste-water standards would, at a minimum, align with applicable federal guidelines and regulations or provincial or territorial standards. AFNWA supports the establishment of clear standards and believes that the future waste water requirements should also consider environmental risk assessments to the receiving body of water.

However, establishing standards is only part of the solution. Those standards must be supported by adequate, predictable and sustainable funding. AFNWA is encouraged that clause 27 requires the funding framework to be completed within one year and specifically recognizes capital, operations and maintenance monitoring, enforcement and actual costs and capacity development. These are essential.

However, completing a funding framework is not the same as ensuring the funding identified through that framework will be provided. Clauses 30 and 31 continue to rely on best-efforts language by Canada to provide adequate funding. The AFNWA's operational experience in meeting these regulatory standards requires certainty that the necessary funding will be available to operate, maintain, monitor and renew these systems over a long period of time.

Certainty in service is only possible when there's certainty in funding. This need for funding certainty becomes even more important when first nations choose to establish standards that exceed the guidelines for Canadian drinking water quality or waste-water systems' effluent regulations. In those circumstances, the funding framework must provide adequate resources to build and maintain the infrastructure necessary to meet those higher standards.

● (1640)

Just as importantly, clause 27 identifies enforcement as an element to be considered in the funding framework. There is limited experience with a regulatory enforcement regime of this nature in first nations communities, so the actual cost of effective enforcement remains unclear. Clause 24 provides first nations with options for the administration and enforcement of their own laws, but AFNWA believes first nations must also have the resources and capacity to establish first nations-designed and -led approaches to enforcement. Standards alone will not improve outcomes. They must be—

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

James MacKinnon: Sure.

I want to close by mentioning that, along with a well-trained workforce and opportunities for first nations operators, we want to make sure there is adequate funding, as well as a process for decentralized systems. The funding framework built into this bill should clearly define how decentralized wells and septic structure systems will be built, maintained and replaced.

Thank you.

The Chair: Thank you very much, James.

Next, we'll go online to Chief Sunshine from Sturgeon Lake Cree Nation.

Welcome. You have five minutes. I'll let you know when you have about 30 seconds to wrap up.

Chief Sheldon Sunshine (Chief, Sturgeon Lake Cree Nation):

Tansi Kakawiyak. Thank you, Chair.

Honourable members of Parliament, my name is Sheldon Sunshine. I'm the chief of Sturgeon Lake Cree Nation in Treaty No. 8 territory. Thank you for the opportunity to speak to this committee about Bill C-37.

Our ancestors entered into treaty in 1899 with the imperial Crown. At that time, Alberta was not even a province. Our people did not enter into treaty expecting to answer to a provincial government. Treaty No. 8 is a nation-to-nation sacred covenant and part of the legal foundation upon which this country is built.

Since time immemorial, our territory has included water. We depend on the Smoky River, Iosegun River, Goose Lake, Goose River and Sturgeon Lake. These waters sustain our people and support our ability to exercise our treaty and inherent rights, including harvesting fish, medicines and large game.

Our territory in northwestern Alberta has experienced decades of industrial development, including mining, forestry, oil and gas, and abandoned and orphaned wells. Now we're facing lithium mining, nuclear power proposals and American-driven hyperscale data centres. All this development is taking place near, on or in waters we depend on. We are already experiencing serious cumulative impacts that remain unaddressed. This is not consistent with the promises and obligations of Treaty No. 8.

I want to make one thing clear about our relationship with water. At the time of treaty, we were a matriarchal society. Our women were waterkeepers. They were not included in the treaty negotiations. Water was never discussed. We did not surrender our water. Water was never negotiable for our ancestors and it's not negotiable for us today. Since 1899 governments have continued to encroach on our treaty jurisdiction over water, using their interpretation of the Constitution Act, 1867, to assert provincial authority. Those interpretations were never part of our treaty agreement. They do not change our rights.

Today Canada has failed to protect our waters and uphold its treaty obligations. The Wonder Valley hyperscale data centre is one example. Canada has failed to properly assess the impacts of this project, including the continuous discharge of enormous amounts of waste heat into our territory and waters. Instead of addressing these failures, Canada has introduced Bill C-37. We see this legislation as another attempt to limit our inherent authority and jurisdiction over water. We do not need legislation to implement our treaty. We need Canada to honour its treaty obligations and give our nation the space and capacity to develop and exercise our own laws.

There are three major problems with Bill C-37. First, Canada is downloading responsibility for water and sanitation services on reserve for first nations without guaranteeing the necessary funding. Providing safe drinking water and sanitation is a federal responsibility. Canada cannot transfer that responsibility to first nations without providing the resources to carry it out. We have seen this in child and family services. Clause 30 of this bill requires only “best efforts” when it comes to funding. Best efforts are not a funding guarantee. They are not an acceptable substitute for Canada's obligations. This legislation risks creating a two-tiered system while allowing Canada to shift its responsibilities and liabilities onto first nations.

Second, Alberta cannot have a veto over our jurisdiction. Clause 6 makes the recognition of our jurisdiction in adjacent protection zones dependent on an agreement between first nations, Canada and the province. What happens when Alberta refuses to agree? What happens when a major development threatens our source water and the province will not co-operate? We are prepared to work with Alberta and Canada, but co-operation cannot be the condition of exercising rights in a jurisdiction we already have. Our jurisdiction does not depend on Alberta's approval. Parliament must remove this barrier. No provincial government should determine whether our inherent jurisdiction exists or how far it extends.

Third, Bill C-37 weakens the recognition of our human rights to water and attempts to limit our treaty jurisdiction to reserve boundaries and drinking water services. I appeared before this committee on June 17, 2024, to speak about Bill C-61.

The Chair: You have 30 seconds, Chief.

Chief Sheldon Sunshine: We're going further in the wrong direction by reducing our human right to water through a policy goal. Our right to water is grounded in treaty, our constitutional rights and international law. It is not simply a government policy objective.

Our rights do not begin at the end of the reserve boundary. Our treaty territory extends far beyond those lines. The treaty was an agreement to share the land. There was never an agreement to surrender our authority and our waters and our rights.

● (1645)

We're demanding that Canada respect our treaty, honour its commitments and recognize our inherent jurisdiction. Our water is not a policy goal. It's not a federal or provincial possession. It is part of who we are, our treaty, and our responsibility to future generations. For those reasons we ask this committee to reject Bill C-37 in its entirety.

Thank you.

The Chair: Thanks, Chief.

We're going to start the six-minute round with MP Dalton.

You have six minutes, please.

Marc Dalton (Pitt Meadows—Maple Ridge, CPC): Thank you very much to our guests for joining us today.

Chief Sunshine, different witnesses have testified how so much of the funding for safe drinking water doesn't actually get to the first nations. So much of it is whittled away through layers of bureaucracy and consultants. Do you agree with this?

● (1650)

Chief Sheldon Sunshine: I believe that on many levels there are significant challenges when it comes to funding getting down to first nations. At the first ministers' meeting, we heard the Prime Minister talk about the housing dollars, $4 billion a year, $3.5 billion.... At the end of the day, when you take that throughout the 630 nations across this country, it really doesn't amount to much.

Marc Dalton: It was proposed to set up a water commission and water commissioner. Do we need another bureaucracy? Doesn't the government already have the ability to get the job done but it just hasn't? Do you think it's just another way of just delaying and making it look like they're doing something, but they actually aren't?

Chief Sheldon Sunshine: My view of this legislation, as well as Bill C-61, is the Government of Canada doesn't need legislation that limits jurisdiction for first nations. It never has. It can't affect our treaty. Make a commitment to provide safe drinking water. We are all for that, but the way this legislation is written, it doesn't commit to those dollars. Also, the effects on our way of life in our territory is non-negotiable.

Marc Dalton: Can you elaborate a bit more on how Bill C-37 could affect Treaty 8 nations in practical terms, particularly when it comes to industrial development and water withdrawals?

Chief Sheldon Sunshine: Decisions about water use, industrial development, energy projects and major infrastructure can have consequences throughout our entire traditional territory. The project doesn't have to be on reserve to affect our drinking water, watersheds, wildlife and our way of life. It's going to have impacts on future generations.

I talked about the traditional oil and gas developments. Now we're seeing an increase in AI data centres in our territory. There is talk of nuclear to the north of us and lithium deposits that exist on our border. These things cannot be looked at as a single project, which they are. The cumulative impacts that they're going to have on our territory is frightening. To have limits on our jurisdiction within the provincial or federal government is absolutely concerning to our people.

Marc Dalton: What concerns do you have about giving the provincial government a role in determining whether first nations can exercise jurisdiction over source water protection areas?

Chief Sheldon Sunshine: I think we've seen over the past few weeks what's been happening in the province of Alberta. First nations rights have been under attack from this government for the past two years with the mindset where first nations are a problem, or an obstacle to go around. I've said it, and I'll say it 100 times to all levels of government: first nations aren't the problem. You need to start coordinating with us at the forefront of legislation. We haven't seen it. We haven't seen it in Alberta. We haven't seen it in Canada. It's time that we do things differently.

The chiefs steering committee, which is tied to the Alberta Assembly of Treaty Chiefs, requested that any new legislation that was going to go forward have some coordination on it. We didn't see it. It was done behind closed doors without our knowledge. We're seeing the effects here today.

Marc Dalton: Recently the Minister of Indigenous Services was here. She talked about one first nation that has had boil water advisories and problems for the past 30 years. We asked her what stage this was at and why we couldn't get something done about it. She said that they were going through consultations. She didn't seem to be in any rush whatsoever. As has been brought forward by other members here, she talked about “progressive realization”. It seemed to be an excuse to keep talking about consulting, with nothing getting done about the water.

What are your thoughts about that?

● (1655)

The Chair: Answer in about 30 seconds, Chief, please.

Chief Sheldon Sunshine: I'm sorry. I don't know if I heard enough of your question, because it cut out for 10 seconds.

The Chair: MP Dalton, send him a note so he can put it in writing, because we're out of time. He won't have time to answer the question. You can phrase the question, and then the chief can respond in writing. I don't think he caught the last bit.

Marc Dalton: Chair, you said that I had 30 seconds left when I finished my question. I can just repeat it for him and give him 30 seconds. That would be fine. He could then add something else.

The Chair: Just phrase the question. Then he can put it in writing, because we're out of time.

I'm going to give you—

Jamie Schmale: It was a technical issue. It wasn't his issue.

The Chair: It was just the end that I don't think the chief caught.

Is that correct, Chief?

We don't need the big preamble, just the end piece.

Chief Sheldon Sunshine: There's a middle section I didn't catch. That's where it cut out.

Marc Dalton: What we're discussing is how the Minister of Indigenous Services talked about a reserve with water issues for 30 years. We asked her to address this and whether it was going to be taken care of, but she was in no rush. She talked about “progressive realization”. She seemed to be quite content with this.

What are your thoughts about this lack of urgency, this “progressive realization” jargon and the direction the government is going in?

The Chair: Chief, can you put that in writing and get it back to us? We will receive that. It will be circulated and put into the record.

Jamie Schmale: Why can't he answer?

The Chair: We're about a minute and 10 seconds over time right now.

Jamie Schmale: I realize that, but you said that he had 30 seconds to answer after he'd already asked his question. It wasn't because he went over time. It was a technical issue.

If Chief Sunshine takes 30 seconds or less to answer the question, he shouldn't have to type it up.

The Chair: There were about 30 seconds left, in entirety.

Chief, if you want, you can make a very quick comment on it and then put more in writing. I just don't want to cut you off when you're getting into it.

Chief Sheldon Sunshine: It's no problem. I'll keep it short.

We've seen those types of answers here in Sturgeon Lake Cree Nation when we're dealing with different processes through the government. I think it's a real cop-out. You asked a direct question: “Why isn't this happening?” Make it happen.

It's the same thing with this legislation. We don't need legislation to tell us that we need clean drinking water throughout our country. Just make it happen.

The Chair: Thank you very much.

Next, we're going to Lori for five minutes.

Lori Idlout (Nunavut, Lib.): I think it's Ginette.

The Chair: Thank you.

Ginette's going next.

Ginette Lavack: Thank you, Mr. Chair.

Thank you so much, Chief Sunshine, for your testimony today. Thank you, Mr. MacKinnon, as well. I think it's truly beneficial when we're considering legislation like this to have experts around the table with first-hand experience sharing testimony with us.

Mr. MacKinnon, you mentioned decentralized systems in your remarks. In effect, this legislation is accompanied by $4.6 billion in funding to go toward infrastructure, operator recruitment and training, etc., and nearly one billion of those dollars are specifically going to target projects that repair, upgrade and replace decentralized systems like wells, cisterns, etc.

Can you talk to us about what you think about this funding for decentralized systems and how it will better support first nations, in terms of their clean drinking water and the goals of the settlement agreements?

James MacKinnon: In the context of the AFNWA, originally when we were contemplated, we were funded to service just the centralized system, but our board, which is made up of chiefs, recognized that there was a significant gap. Part of our funding renegotiation that we did this past summer was to include decentralized systems as part of our holistic service to the communities. A number of our communities have a significant number of wells and septics, many of which are aging and failing, and they present a significant public health risk to those who are serviced by them.

Part of the work we did was to develop a program that would be ready to be funded—if those funds become available—over a 10-year period, to systematically assess and replace or maintain any of the septics or wells in their communities.

I should mention that no two communities are the same. We have communities that are 100% serviced by a centralized system, and we have others that are about fifty-fifty. Having a methodical approach to the replacement or the rehabilitation of wells and septic systems is really important.

The other thing is to look at it from an engineering perspective and see when it is more viable to move a well or a septic system to be part of the centralized system. That's a financial question, and it's an engineering question. The AFNWA's strength is that we have that engineering bench strength to make those determinations and give those recommendations to our communities.

● (1700)

Ginette Lavack: You've just demonstrated an excellent example of when you're working together with first nations, the benefits you're able to develop together.

Are there other examples of what you've seen improve in first nations communities since the establishment of the water authority?

James MacKinnon: Absolutely. I think the biggest thing we've done is improve the infrastructure in our communities and the level of service that we're able to provide.

I mentioned in my notes that we have delivered, or are actively delivering, $107 million in capital projects, and that's over a three-year period. What that speaks to is the infrastructure gap that is in the communities all across Canada. When you invest in first nations governance.... The AFNWA is a full-service utility. It has full liability and responsibility to both Canada and the communities we serve to deliver this service. When you invest in governance structures like that, it allows for the funds to flow in the right way and support the right things.

Some of the other improvements we've made outside of infrastructure.... When a community becomes a member of the AFNWA, their operations staff become our staff. When we started, there were 25 operators who became our staff, and there were about 20 certifications. There are four different types of certifications: waste-water treatment, waste-water collection, water treatment and water distribution. Someone could hold up to four or eight. Now, having the operators as part of our staff and having them adequately compensated for the technical, important work that they do, we now have over 90 certifications among those 25 operators.

We've seen a real uptick in certification, but we've also seen improvements in monitoring, regulatory development and oversight. We've developed our own regulations that we adhere to now. The AFNWA has represented a dramatic change in how water services are delivered in the communities that we represent.

Ginette Lavack: That's great.

I want to go a step further and talk a bit about the water commission that is proposed in this legislation in order to, again, put the responsibility and the co-development of that together with first nations to ensure that those standards are established in the way that they see fit.

In your view, what are the benefits, or what would you like to see, in terms of a national water commission based on the experience that you have? How could that translate to that kind of an initiative and body?

James MacKinnon: I think, for a national water commission—I spoke about the need for regulations and regulatory enforcement in my comments—whether that commission is a regulator or an enforcer for the nation, that remains to be seen. I personally think that it should be first nations developed and regionally based. Every region in the country is different. Every province in the country is different.

Certainly, though, if a commission could focus on compliance and be the centre for excellence for standards that first nations can adhere to or think about and adopt in their own laws, I think that would be a useful purpose for the first nations water commission.

The Chair: Thank you very much.

[*Translation*]

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

[*English*]

Then we have to go into committee business after this.

Please proceed with the last question and answer.

[*Translation*]

Marilène Gill: Thank you, Mr. Chair.

Thank you to the witnesses for being here. I have a couple of questions for Chief Sunshine.

You made a pretty strong statement. I did not expect to hear in committee that Bill C-37 should be rejected. I would like you to tell us more about the issue of rejecting the bill. You mentioned that you were there in 2024 when Bill C-61 was being discussed. I don't want to put words in your mouth, of course, but, in your opinion, the version of Bill C-61 had more teeth than that of Bill C-37.

Please explain to us the reasons for this complete rejection. It's a bit like asking the government to go back to the drawing board.

● (1705)

[*English*]

Chief Sheldon Sunshine: I think it's important for all members of Parliament and all levels of government to really understand what's at stake here. When you have legislation that aims to limit a jurisdiction that we never gave up.... You hear all the land acknowledgements. When we talk about unceded territory, there was an understanding at the time of treaty that we were to share the land. That means something to us. We are not going to have any legislation that's going to infringe on that jurisdiction, as this does.

There are many others who I spoke to, and some of the previous witnesses spoke to this. When it comes to access to clean water for our people, really, at the end of the day, it's a human right. When we talk about our history, like we said, women were responsible for the water, and they weren't included at the signing of treaties for a specific reason. There was no discussion of water for the protection of it. I hope I answered your question adequately.

[*Translation*]

Marilène Gill: I won't comment on whether you answered my question correctly or not. You're answering. I take your answer with great humility.

Are there any other chiefs or groups of chiefs or grand chiefs who have the same idea about Bill C-37, meaning who would like it to be rejected?

Off the top of my head, I haven't heard that request from the witnesses we've heard from. I don't know if I'm right or not.

Chief Sunshine, do you know if other chiefs are on board with your vision, your idea?

[*English*]

Chief Sheldon Sunshine: I can't speak for any other chiefs or express what they think. I know there are many treaty-concerned chiefs out there in communities, and this is high on the list. When you're trying to limit jurisdiction through legislation, like I said, it is a challenge to first nations. I see this legislation and Bill C-61, because of the limits on jurisdiction, as a challenge to my first nations and then we'll act accordingly.

Again, I can't speak for other nations, but I know there's discussion about this specific impact on other nations in our territory.

[*Translation*]

Marilène Gill: I understand that you can't speak on behalf of other chiefs, but sometimes information can be found in various ways. I was thinking that there may have been discussions about this among the chiefs.

I would like to ask one last question about Bill C-39. It has been criticized by the Assembly of First Nations, and it obviously has a huge impact on environmental legislation, for one thing, and on the issue of regions of national interest. It would be possible to suspend or circumvent certain laws to ensure that projects can start without all the authorizations in hand, so that things can always move faster.

Do you have any concerns about the relationship between Bill C-39 and Bill C-37?

[*English*]

The Chair: You have about 40 seconds, please.

Chief Sheldon Sunshine: We have the same concerns when it comes to even Bill C-5 and now Bill C-39.

Like I said, there are going to be significant impacts in our territory. Right now, even with the traditional oil and gas, forestry, critical minerals and, now, nuclear power and AI data centres, we cannot look at this in a silo. All of these have cumulative impacts that are impacting our territory significantly.

I can't overstate the importance of what that means to our people when it comes to water and our livelihood. When we take a look at Bill C-39, we're going to have the same concerns.

● (1710)

The Chair: Thank you very much for that.

Thank you very much to our witnesses on the second panel.

We are going to suspend and then go in camera to talk about committee business.

Those folks who need to leave will have to leave, as we're going in camera.

[*Proceedings continue in camera*]

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