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• (1620)

[English]

The Chair (Mr. Patrick Weiler (West Vancouver—Sunshine Coast—Sea to Sky Country, Lib.)): Welcome to meeting number 119 of the House of Commons Standing Committee on Indigenous and Northern Affairs.

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

We recognize that we are having this meeting today on ancestral and unceded territories of the Algonquin Anishinabe people. That's very relevant today, because we are very fortunate to have some excellent witnesses to provide testimony for this work.

I want to welcome our witnesses to our panel. From the Anishinabek Nation, we have Grand Council Chief Linda Debassige; from the Chiefs of Ontario, we have Grand Chief Abram Benedict and Irving Leblanc; from the Cowessess First Nation, we have Chief Erica Beaudin.

From the Nishnawbe Aski Nation, we have Deputy Grand Chief Anna Betty Achneepineskum; Michael McKay, director of housing and infrastructure; Jamie Saunders, infrastructure adviser; and Maheegan Armstrong, legal counsel.

To start, we will have a round of introductions of five minutes for each of the four organizations here, starting with Linda Debassige.

I'll hand the floor over to you, for five minutes

Ms. Linda Debassige (Grand Council Chief, Anishinabek Nation): Chair, this is my first time at committee. When you say introductions, is that an introduction about me, or my statement?

The Chair: Pardon me, I should have been more clear.

There are five minutes for you to provide introductory remarks, and you may use that five minutes as you see fit.

Grand Council Chief Linda Debassige: Thank you.

Aaniin, boozhoo and good afternoon. My name is Linda Debassige and I am the grand council chief of the Anishinabe Nation. I'd like to acknowledge that we are gathered on the unceded territories of the Algonquin people.

I'm honoured to be here today to speak about the urgency and importance of safe water and wastewater legislation for first nations across Canada. I was born and raised in M'Chigeeng First Nation

along Lake Huron, and I was elected to my council in 2013. I was chief in my community from 2015 to 2023. In 2024, I was elected grand council chief of the Anishinabe Nation.

The Anishinabe Nation represents 39 first nations in Ontario. Our communities have always maintained their inherent right to water since time immemorial, including their right to clean, safe drinking water. Our communities continue to maintain that their ancestors have never ceded the water to any settler nation and maintain they are stewards of the Great Lakes.

I would like to begin by reminding each of you about the importance of and urgency of legislation to address long-standing water and wastewater issues in first nations communities across this country. I would like to point out to this committee that the statement in clause 30—under the heading “Obligations of Government of Canada”—to “make best efforts to provide” is unacceptable and very weak. It should be replaced with “will provide”. This “make best efforts” speaks to colonial commentaries of the past. We have heard this time and again in many of the failed promises of the past. It is time that you do better.

Here in Ontario, the nations I represent continue to fight every day for basic human rights, including to safe, clean drinking water. This fight should be our fight, since we are in this together as treaty partners. The failure to deliver this right to safe drinking water in this day and age is simply disgraceful. I think especially of our ancestors, who, at one time, could drink the water freely and without having fear for one's life.

I am here to remind each of you of the responsibility we have, collectively, to first nations people, children, elders and those yet to be born. This legislation is important. It is urgent. We cannot wait any longer. As you all know, after the enactment of the Safe Drinking Water for First Nations Act in 2013, we consistently asked Canada to repeal the legislation. This act was brought into force without any consultation, or funding commitments to implement it, or engagement with first nations regarding our inherent and treaty rights and jurisdiction to make laws about water. The act was heavily criticized for lack of meaningful engagement and consultation with first nations, inadequate resources to implement the regulations and increased liability to first nations. Since 2018, first nations organizations, including the Anishinabe Nation, have advocated for strong legislation that protects first nations rights and honours our relationship with water. We've advocated for more robust protections and for the right to be recognized as stewards and decision-makers.

I want to take a moment to acknowledge Chief Moonias from Neskantaga First Nation, Chief Spence from Tataskweyak Cree Nation and Chief Emerita Whetung from Curve Lake First Nation for their tireless efforts to bring the class action forward that ultimately compelled Canada to repeal the Safe Drinking Water for First Nations Act of 2013.

Since the repeal of the act in June 2022, drafting of the replacement legislation was guided by a working group tasked with a process for new legislation. I was honoured to be part of that team and co-led it with former members of first nations. I was also honoured to co-lead that team with former National Chief Phil Fontaine. Although no process is perfect, the work between the Assembly of First Nations and ISC laid a foundation for a more inclusive process. Through this process, with representatives from ISC and AFN, we worked to advance legislation. Although this was not true co-development through our world-view lens, it was an opportunity to continue to advocate for first nations and make positive impacts at home and for our people.

This legislation is important. It's passing a critical step towards addressing decades of harm towards first nations that was rooted in colonialism. I believe that, with a few key changes, this legislation will allow first nations to finally have a guaranteed chance to access clean, safe drinking water and wastewater treatment.

Canada's obligation needs to go further, as I have previously mentioned. The legislation affirms the inherent right to self-government that is recognized under section 35 of the Constitution Act 1982, which includes the jurisdiction of first nations in relation to water, source water, drinking water, waste water and related infrastructure on, in and under first nations lands.

It acknowledges our relationship with water and recognizes that we have the right and jurisdiction to make our own decisions and laws in relation to water, source water, drinking water, waste water and related infrastructure.

It allows for the creation of standards and regulations. This is so important. As of right now, first nations do not have enforceable regulations in place.

• (1625)

It also allows for the creation of a funding framework in an urgent manner, moving away from decades of formula-based funding and towards a funding mechanism that recognizes the actual costs of building, maintaining and managing drinking water and wastewater systems.

Moreover, it allows for the creation of a first nations water commission, something that we have been discussing for many years. These are all critical components and cannot be overlooked as important elements of this legislation.

I believe the legislation can be strengthened in a few areas that will ensure that first nations are protected. Stronger language can help protect first nations no matter what political party is in power.

I believe this legislation must be bipartisan; we cannot use first nations and this bill as pawns in a political fight.

First nations today and in the future look to you to do the right thing and make recommendations to ensure that this legislation has the support to include the rights provided for in UNDRIP; under Section 35 of the Constitution Act, 1982; and in UN Resolution 292, which recognizes the human right to water and sanitation.

The creation of protection zones must recognize first nations' inherent rights as well as their jurisdiction within their respective territories. I am recommending a rights-based approach to ensure our rights and unsundered interests are protected.

Every element of the legislation should have a time limit imposed to ensure that we don't continue to drag this matter on for another decade or more. Enacting Bill C-61 will mark a critical step towards securing the right to clean and safe drinking water and wastewater management for first nations and recognizing it as both a human right and an essential service. Bill C-61 is an important milestone in a decades-long fight for adequate water and waste water in first nations across this country.

This is an opportunity for Canada to finally do right by first nations. The consistent failure of the Crown to resolve inherent rights over time has compounded the complexities in relation to water. However, you have an opportunity to be closer to the right and just side of society today. By addressing first nations' concerns, Bill C-61 can pave the way for a future in which first nations children grow up without water advisories and their nations can thrive.

I cannot stress enough that the passage of this legislation is important, timely and critical to protecting first nations health and the well-being of our people, our elders, our children, our grandchildren and those yet unborn. We cannot afford to wait any longer.

Thank you. *Meegwetch.*

• (1630)

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

Next, I will turn the floor over to Chief Erica Beaudin to deliver five minutes of introductory remarks.

Chief Erica Beaudin (Cowessess First Nation): First of all, good afternoon, and thank you for asking me to witness today. My name is Erica Beaudin. I am chief of the Cowessess First Nation. We are the largest first nation in Treaty 4 territory, with 4,700 members or citizens.

Before I came to Ottawa—and I say Ottawa, but I acknowledge that we are on the unceded lands of the Algonquin people—I put down medicines in our waters while I prayed for all of us to have open minds, hearts and spirits as we look at the possibilities of the inaction of Bill C-61.

Water is alive. Water is life. None of us, not one of us, whether we are indigenous or not, can exist without clean drinking water. The social determinants of health are also very important to consider when we look at aspects such as providing safer communities for our children. There are several bills that are before Parliament right now, and to think that Bill C-61 sits in isolation and isn't connected to other bills means that it does not look at the interconnectedness of what it takes for our nations, our communities, to deliver proper living conditions for our people.

Bill C-61, the first nations clean water act, represents a significant step forward in affirming the rights of first nation communities to self-governance over water resources on our lands. It is a positive development in recognizing that first nations have the inherent right to manage our water, our own water, source water, drinking water and wastewater infrastructure. This legislative framework seeks to ensure that first nations have access to clean and safe drinking water, a long overdue commitment given the historical neglect and challenges faced by many indigenous communities in Canada.

The bill outlines several promising aspects, such as the creation of rights-based regulatory pathways in collaboration with first nations, other federal ministers and provincial governments. These pathways are designed to protect water sources adjacent to first nations' lands and to protect a legal structure for first nations to exercise control over water resources on our territories. This is an important recognition of self-determination and aligns with the principles set out in the United Nations Declaration on the Rights of Indigenous Peoples.

While the act is a step in the right direction, there are limitations that must be acknowledged. Funding is always a primary concern with anything related to first nations, and we need certainty to ensure that this legislation has long-term impact and enables predictability of resources to address the deep-rooted issues surrounding water quality and infrastructure. While the legislation speaks to best efforts to provide adequate and sustainable funding for water services, I believe we could strengthen that language to further strengthen the bill.

The other point I'd like to briefly touch on is the requirement for first nations to collaborate with provincial governments on protecting source water, which would present challenges. I can only speak from my experience as a chief from Saskatchewan, but on behalf of our nation in our fight for the sovereignty and jurisdiction over our traditional lands and waterways, I have seen and experienced firsthand the jurisdictional conflicts, unhelpful provincial actions and lack of rights recognition that complicate efforts to safeguard water quality on first nations lands.

I understand that there is a federal need for intergovernmental cooperation, but I would be remiss if I did not flag how that may hinder the timely implementation of protections that are crucial for ensuring safe drinking water for our communities. The criticism from some indigenous groups that the bill's "best efforts" clause is insufficient cannot be overlooked. The lack of a binding legal commitment to provide safe and clean drinking water, coupled with the absence of a clear mechanism for enforcement, means that the bill may not fully address the systemic issues it aims to solve.

Bill C-61 is a necessary and positive step towards recognizing first nations' rights to self-governance and ensuring clean water access. However, like any legislation, it can become stronger with amendments. I believe that with clearer tools, such as a commitment to predictable funding, coupled with mechanisms to support first nations in dealing with unaligned provincial governments, this legislation will protect water for all our generations yet to come.

• (1635)

The time is now for Bill C-61 to come into force.

Thank you very much.

The Chair: Thank you very much, Chief Beaudin.

Next up, I will turn the floor over to the Nishnawbe Aski Nation. I believe Deputy Grand Chief Anna Betty Achneepineskum will be providing five minutes of opening remarks.

Deputy Grand Chief Anna Betty Achneepineskum (Nishnawbe Aski Nation): Yes. Thank you very much.

Wachiye, boozhoo.

My name is Anna Betty Achneepineskum, and I serve as the deputy grand chief for the Nishnawbe Aski Nation.

First of all, I want to thank you for inviting us to make a presentation to the committee on its study of Bill C-61, an act respecting water, source water, drinking water, waste water and related infrastructure on First Nation lands. I want to acknowledge that this committee meeting is taking place in Ottawa, an unceded and unsurrendered territory of the Anishinabe Algonquin nation, whose presence there reaches back in time immemorial.

The Nishnawbe Aski Nation is composed of 49 first nations communities, most of which are signatories to Treaty 9 in the Ontario portion of Treaty 5. Treaty 9 is unique among the historical treaties because it was an agreement signed by first nations with Canada and Ontario. We also state that the people of the Nishnawbe Aski Nation are a sovereign people with sovereign and inherent rights by virtue of being the first peoples of their lands.

As of September 23, 2024, today there are 13 long-term drinking water advisories within 12 of the Nishnawbe Aski Nation communities, including my home community of Marten Falls. There are nine drinking water advisories that have been in place for less than a year.

There are nine communities that have difficulty accepting that treated water is safe to drink, even once drinking water advisories have been lifted. We have to ask ourselves why. A lot of that is because of the trauma associated with and the health impacts of the lack of safe water.

NAN has submitted a briefing to the advisory committee, the text of which is available on the Crown-Indigenous Relations and Northern Affairs website. NAN chiefs have not endorsed a formal position on Bill C-61, but believe that several amendments could be made to strengthen the wording in the bill. The amendments recommended by the Nishnawbe Aski Nation include ensuring that Bill C-61 is binding on the Crown; ensuring that Bill C-61 is worded so that first nations laws also have the force of federal laws; and ensuring that adequate, long-term funding provisions are provided in Bill C-61.

Bill C-61 does not provide a clear framework for the government on source water protection zones, leaving it ambiguous as to who has the ultimate authority over the establishment, management and enforcement of these zones.

In the remaining time I have, I would like to ask our legal counsel, Maheegan Armstrong, to speak a bit more about the suggested changes to Bill C-61 that are outlined in the brief submitted by the Nishnawbe Aski Nation.

• (1640)

Mr. Maheegan Armstrong (Legal Counsel, Nishnawbe Aski Nation): Hello. I'm Maheegan Armstrong. I'm a lawyer representing Nishnawbe Aski Nation.

I'm going to very quickly go through some of the amendments and the rationale behind them.

In the briefing note, we made two pretty big suggestions. One is to make sure that the law-making sections, where it talks about jurisdiction, are binding on the federal Crown. The other is to make sure that first nation laws have the force of law as federal law.

These are both used in tandem to make sure that the law-making sections of Bill C-61 are strengthened and there's a bit more certainty.

The reason why we're suggesting these is in light of a new Supreme Court of Canada case that came out in February. It was the reference case to the Act respecting First Nations, Inuit, and Métis children, youth and families that came out. The decision was rendered on February 9, which was after this bill came into the House of Commons.

We've incorporated some of that guidance from the Supreme Court of Canada case. We want to strengthen some parts of this bill with that guidance from the Supreme Court.

Thank you.

The Chair: Thank you very much.

For the awareness of committee members, Grand Chief Abram Benedict will be joining us in a short while. We'll give him an opportunity to provide opening remarks at that point.

This concludes the introductory remarks section.

We will move into our first round of questioning, which is a six-minute round.

Starting with the Conservative Party, we have Mr. Schmale. I'm sorry, it's Mr. Melillo.

Please go ahead. You have six minutes.

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

You tried to give my speaking time away. I appreciate it.

Thank you to all the witnesses for being here to speak to this important piece of legislation. I very much appreciate it.

I will start with the Nishnawbe Aski Nation and the deputy grand chief.

When the bill was introduced, Grand Chief Fiddler said in a press release, "We acknowledge that some First Nations have had opportunities for input into the drafting of this legislation, but we do not agree that this legislation has been co-drafted."

Can you describe the process that NAN has had in the development of this legislation and why that conclusion was made?

Deputy Grand Chief Anna Betty Achneepineskum: Thank you, Member of Parliament Melillo, for that question.

I do have a copy of that statement that was presented by Grand Chief Fiddler at that time.

I'm going to turn it over to our legal counsel to respond.

Thank you.

• (1645)

Mr. Maheegan Armstrong: Can you rephrase that question, please?

Mr. Eric Melillo: The question is about the involvement that NAN had in the lead-up to this. The statement by Grand Chief Fiddler indicated that although there are opportunities for input into the drafting, the Nishnawbe Aski Nation does not agree that the legislation has been co-drafted.

I'm just curious as to what that process was like in terms of the involvement of NAN.

Mr. Maheegan Armstrong: The drafting process took place over about a year. What sort of ended up happening at that time, from my understanding, was that there was an NDA with some of the parties that were doing the drafting. NAN wasn't a part of that. That would probably reflect, at that point in time, that there were periods of time when there was no input other than from the parties that were party to that NDA that were doing the drafting.

Mr. Eric Melillo: I appreciate that.

Thank you.

I'll ask a question of Grand Council Chief Linda as well, who is in the room.

I believe you said in your opening remarks, if I heard you correctly, that this was not true co-development.

Would you like to expand on that? Do you have a similar view as the Nishnawbe Aski Nation?

Grand Council Chief Linda Debassige: *Meegwetch* for the question.

I want to respond in the kindest of ways. You are an MP in the House of Commons. There are certain, I would say, legislative privileges that comes with that role and, really, to any party that is in power at the time. I believe that, through the process instituted by Canada and that of the Parliament, cabinet privilege is one of them. My understanding of cabinet privilege is that there are conversations that happen, mandates are given, and that is in absolute isolation of any first nation person or community across this country.

When I look through our world view lens of co-development, it requires an understanding of a collective goal, and working towards that goal without any hindrance. Obviously, I also shared in my statements that the lack of access to clean, safe drinking water is a symptom of colonialism that started hundreds of years ago and through those processes. I feel that, in this particular process, the AFN Chiefs and assembly did provide a resolution and mandate to move forward with a process, with Canada, to develop replacement legislation, as ordered by the court.

In my experience, firstly, as a councillor in my community, part of that process were heavy engagements with the Chiefs of Ontario at the time. That fed into the AFN. The Assembly of First Nations continued advocacy and pushes, so resolutions developed over time. As a chief I participated in many engagement sessions surrounding the safe drinking water legislation across the province of Ontario, and what we created at the AFN through those development processes since 2018 were 29 preliminary concepts that were provided to Canada. To give you some context to my response, in terms of co-development, it's what lens you look through and what is mandated through cabinet privilege.

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

Just very quickly, I'd like to ask one more question if I could, Chair.

I come back to Nishnawbe Aski Nation. It was mentioned, in opening remarks by a few folks here, that some of the wording in this legislation is that the minister "must consult and cooperate" before moving forward with regulations. Do you have a view on that type of legislation, whether it's strong enough or whether it should be amended going forward?

• (1650)

The Chair: It has to be a very brief answer.

Mr. Maheegan Armstrong: I can respond to that.

You're talking about "consult and cooperate", which is throughout multiple provisions in that. Is that right?

Mr. Eric Melillo: That's correct, yes.

Mr. Maheegan Armstrong: I would say, from a legal standpoint it does require consultation and co-operation, which might be undefined from a legal standpoint. In my view, it kind of remains to be

seen how that is implemented, which I think speaks largely to the entire legislation. I think implementation is going to be one of the bigger pieces....and see how that rolls out.

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

We go to our next questioner here, who is....

I'm sorry.

Mr. Jaime Battiste (Sydney—Victoria, Lib.): Do you want to give Mr. Benedict a chance?

The Chair: Oh, yes.

It's our great pleasure to welcome our last witness joining us today. We have Grand Chief Abram Benedict, the Ontario regional chief.

I'm sorry to put you immediately on the spot here, but I give you the opportunity to provide five minutes of opening remarks.

Grand Chief Abram Benedict (Ontario Regional Chief, Chiefs of Ontario): My apologies, members of the committee, for being a few minutes late.

Thank you for the opportunity to present to you this evening. I'm Abram Benedict. I'm the Ontario regional chief for the Chiefs of Ontario, which is an organization here in Ontario that represents 133 first nations. Prior to being the Ontario regional chief, I was the chief of the Mohawk community of Akwesasne for nine years and was a member of the council there for nine years as well, so I have 18 years in community leadership. I've had the privilege and honour of being elected the regional chief for the communities in Ontario.

The important issue that you're speaking about today is the legislation around clean drinking water. Unfortunately, of the boil water advisories that exist in this nation, 72% of them are in Ontario, so we are the region most impacted by a historic failure to provide clean drinking water to our communities.

These persistent issues not only jeopardize the health and well-being of our people but also undermine our right to self-determination, our governance and the future of our communities. As you can imagine, water is fundamental to existence and also to prosperity for many of our nations across Turtle Island, but more specifically to the ones who have boil water advisories in Ontario.

There are entire generations who have been unable to get clean drinking water from their taps. I recently had an opportunity to visit Neskantaga, which is one of the communities that has had a boil water advisory for 30 years. To put that into context, there are children there who have been born and raised and now are adults and still have to live with boil water advisories. In today's context, that is extremely chilling and unacceptable.

I'm here to deliver a simple message today that Bill C-61 is not perfect, but we do support it. It must come to fruition and pass. This bill is a step forward in recognizing the first nations' inherent and treaty rights that exist. It unambiguously states that the water in and under first nations land is first nations' jurisdiction, which is extremely important to our people. It recognizes the essential role of women, elders and knowledge-keepers as water protectors and stewards of our water. We have seen time and time again our people undertaking either marches or water walks across this beautiful land we cohabit for the rights and the recognition of the importance of water.

Since the tragedy at Walkerton, the rest of Ontario has had high drinking water standards, but first nations have unfortunately been left behind. This legislation does fill an important gap for us to be able to create binding regulations and standards for clean drinking water.

While we support this legislation, we believe it must be strengthened in four critical areas: predictable and sustainable funding, the creation of protection zones, addressing urgent water and sanitization issues for Ontario first nations and addressing the real liability issues that exist.

Our recommendations are to ensure that this bill can achieve its intended impact, so funding must be provided at sustainable levels to address the historical underfunding that has created so many challenges in our communities. This includes not only initial capital investments but also long-term operation and maintenance supports to ensure the viability of the water systems in our communities. Chronic underfunding has historically plagued water infrastructure in first nations communities. Temporary or project-based funding is not sufficient to ensure the ongoing maintenance of water systems in our communities.

Beyond infrastructure, there is a need for funding that supports capacity building within first nations communities. This includes training local water operators, developing governance structures for water management and ensuring communities have the knowledge and resources to manage their water systems effectively. This is true nation-building, and this legislation will promote and bring that forward.

Canada has recently settled a class action lawsuit that recognizes the urgent need for more funding. However, there have not been new investments to date, and this must be fixed.

- (1655)

We believe that "protection zones", as currently outlined in this bill, lack clarity. What is meant by "is adjacent to the First Nation lands of a First Nation"? Let's resolve this ambiguity using a rights-based approach.

The absence of defined limits and protection could lead to conflicts between federal, provincial and first nation jurisdictions. There are so many areas where we have seen this conflict happen between the federal government and provincial governments in our communities. This is an opportunity to clarify that.

Bill C-61 must clearly define protection zones to strengthen first nations' self-determination, which in our view includes recognition

of the importance of first nation knowledge systems in establishing and managing protection zones. Our people have been protecting the resources that are extremely important to everybody sitting in this room since time immemorial. We need this legislation to be able to continue to support that.

Many first nations face issues related to source water and groundwater quality. Algae blooms and industry spills might not be fully predictable, but we can guarantee that they will happen, and they will happen again. We need rapid-response funding and technical assistance to address urgent water issues in our communities in this region. We need flexibility in funding and regulatory approaches to accommodate urgent issues.

The final issue is around the uncertainty of liability for our communities, particularly in cases where they may lack the resources or capacity to manage water systems independently. We urge the committee to amend Bill C-61 to clearly define and fairly allocate the liability. We must ensure that the liability is fair and reasonable for our communities and shared with the federal government. The legislation should explicitly protect first nations from liability for historic contamination and infrastructure failures that occurred before the implementation of Bill C-61. First nations should not be held liable for Canada's historic failure to properly fund infrastructure, maintenance, operation and training, nor should first nations be held accountable for future failures or underinvestment by the government.

Bill C-61 should explicitly state the liability of third party contractors involved in building or maintaining water infrastructure, ensuring that first nations are not held liable for contractors' errors and negligence. I want to clearly highlight that our communities will, reasonably, accept the liability, but will not take on broken and underfunded systems and be expected to be held liable for the federal government's lack of action on their end.

We do not want a scenario where first nations' energies and limited funding go to lawsuits instead of maintaining the integrity of water systems. We do not want to be in the courts any more than any person in this room. Let's make those changes now in this legislation and ensure that we don't have to use those avenues.

We urge the committee to consider these recommendations. The Chiefs of Ontario and I would be pleased to answer any questions, and follow up and provide any additional information this committee would like.

Niawenko:wa.

• (1700)

The Chair: Thank you very much, Grand Chief.

With that, we'll move back into our first round of questioning.

Mr. Battiste, you have six minutes.

Mr. Jaime Battiste: Thank you, Mr. Chair.

I'll start with Chief Beaudin, because we just saw each other in the Treaty 4 territory for the 150th anniversary celebration of Treaty 4. It was one of the most magnificent celebrations I have ever seen. All of the headdresses were up front—it was an amazingly powerful statement—with such beautiful beadwork on all of them. It was very amazing.

You had talked a little bit about the trouble with collaboration with the provinces that is implied in this legislation. I'm wondering if you think that formal recognition of a first nation's inherent right over water would strengthen your position when dealing with provinces, if recognized in this legislation.

Chief Erica Beaudin: Thank you for the question and for recognizing the 150th anniversary of the signing of Treaty 4.

The short answer is that it absolutely would.

Our experience right now is with a dam restructuring project. It is time to build a new dam. When we talk about jurisdiction, we're also talking about legal protections to assist first nations, which, hopefully, are in this bill. This will give us more leverage and the ability in our tool box to—I don't want to say fight or to have to fight—assert that jurisdiction that we never gave up. We have the inherent right, as well as the treaty rights, to all of our traditional waters, as well as our waterways and shorelines.

Currently, we are in a deadlocked position with the Province of Saskatchewan. If we do not agree to sell our traditional lands to the province, so that it can rebuild our dam structure, in fact, it will not build the dam. That is essential. We are now in a position where we are contemplating court action, which is very expensive.

The Cowessess Nation is strong and proud. However, the monies that we have from own-source revenue should be going to the people. We should not be fighting what is already inherently ours. Our hope, with Bill C-61, is that this will give us another tool, so that we wouldn't have to go into that type of a legal fight.

Mr. Jaime Battiste: Thank you, Chief.

Regional Chief, I'm going to come to you with a question.

You had stated earlier that 72% of the boil water advisories are coming from Ontario. Do you think that a regional approach, because I know of a lot of different...?

I'm from a first nations reserve myself of about 5,000 people. We have different capacity levels for being able to deal with the oversight, operations and maintenance of water. It's a very technical thing. You talked about it in your speech.

Do you think we should be thinking about a national first nations-led water authority that would help with better outcomes, especially around the operation and maintenance of water?

In asking you this—because I know there are different levels of trust in government—do you think it would be better to do this as first nations, or regionally-based in Ontario? How do you think that could work, if possible?

Grand Chief Abram Benedict: There are a couple of things related to that.

In some cases, you know, regional approaches work. In the case of clean drinking water, it's pretty technical on the ground, right? You can have all the regional bodies you want that either work through regulations or do inspections. The most important part is that the capacity is on the ground. When we see regional approaches around supporting communities, there are inspections for houses or engineering services. I'm not sure that a regional technical body would be able to support the technical operation of water facilities in a community. If there is a regulatory body that would support them, I would say yes.

At the end of the day, the resources are needed to operate the facilities. A regulation in the technical aspect is one approach. I wouldn't say it's impossible, but you really have to think about that one. We need trained and qualified water operators that have the resources to do their jobs, and a regional body is not necessarily going to do that for them.

• (1705)

Mr. Jaime Battiste: I know I don't have much time left.

For the communities that don't currently have boil water advisories, do you think that capacity is a problem in terms of the training that's needed to ensure clean water and consistency in keeping that water clean?

Grand Chief Abram Benedict: I think, ultimately, in many cases, it's about resources to ensure that they are trained and that they are able to do their jobs. When you have communities that are remote and fly-in, we have to bring the members out of the community, train them and support them in that aspect—and that's a whole educational aspect—then bring them back into the community to do their jobs. We need adequate resources to be able to do that.

Mr. Jaime Battiste: Thank you.

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

[*Translation*]

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

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

First, I want to turn to the Grand Council Chief of the Anishinabek Nation.

Ms. Debassige, I would like to hear your thoughts on the concept of protection zones, particularly when it comes to federal legislation.

I gather that the federal government wants to remain vague about the definition of a protection zone. Right now, this obviously falls under provincial jurisdiction.

Protection zones are established by the provinces under the water resources protection legislation. Ontario uses the term “protection zone”, while Quebec refers to a “protection area”. We can see that the regulations are similar.

A protection zone may include wellheads, surface water intakes, highly vulnerable aquifers and major groundwater recharge areas. It's a complete documentation of the territory and the main features of water sources.

According to a map of Ontario's protection zones, the Anishinabek Nation around the Great Lakes is significantly affected. Are you participating with Ontario in the process of establishing the protection zone that affects your nation?

[English]

Grand Council Chief Linda Debassige: Thank you for the question.

I believe that's a complex question that has complex responses and answers. Starting through the treaty-making processes, treaties were only for land, and those treaties did not contemplate land under water or water itself. Where Canada has failed, where the Crown has failed, over time, even in the division of powers, from the federal responsibility to the provincial responsibility, through that period of colonization, is that first nations people were not considered a people and were simply savages. Our first nations people were given the authority by the Creator to protect, for future generations, what did not belong to us.

When you speak to the Province of Ontario, the province really doesn't need to consult with first nations. It will say that first nations are that of a federal jurisdiction, and the provincial jurisdiction does not prevail. The provincial laws that are created don't go far enough to recognize the treaty and inherent rights, even to resources for that matter. Therefore, the protection zones that have been described by the Province of Ontario were described with no consultation with, or consideration of, first nations people. It was in those spaces that the context of that legislation was created without any opportunities for us. That again becomes that provincial jurisdictional imbalance, and both, I think, are equally responsible in not recognizing the inherent rights and jurisdictions of first nations people.

Thank you.

• (1710)

[Translation]

Mr. Sébastien Lemire: *Meegwetch.*

What should be done to establish a sustainable protection zone when two provinces are affected? For example, how can both sides of the Kitchissippi River, known in English as the Ottawa River, be protected?

[English]

Grand Chief Abram Benedict: Is that to any member?

[Translation]

Mr. Sébastien Lemire: The question was for the Grand Council Chief, but you can comment afterwards if you would like to.

[English]

Grand Council Chief Linda Debassige: I think this is about the aligning of laws. First nations should have law-making powers, and that needs to be recognized at all levels of government. For far too many years we've been left out of discussions, and even up until the 1960s we were not able to vote. As we evolve as first nations, as treaty evolves and as government evolves, I think there is a tremendous opportunity to work together to recognize the inherent rights and jurisdiction of first nations and to support those moving forward.

When there is a will, there is always a way. I think history has told us that when there is political will, things can happen. However, when it comes to first nations people, the political will has always been to eradicate us and to assimilate us and to exert control over us. This is an opportunity for Canada, from a non-partisan perspective, to come together with us.

Meegwetch.

[Translation]

Mr. Sébastien Lemire: You expect that the wording of this bill will clearly establish a protection zone according to a process that obviously involves consultation with the first nations concerned. The goal is to better protect the most important waterways, especially for the Anishinabek Nation.

[English]

Grand Council Chief Linda Debassige: Absolutely. While I represent the Anishinabek Nation as a political and territorial organization, the rights belong to our people and to our nations that existed prior to treaty. Those have to be defined by them through proper mechanisms, but it should also be stated that this is not something that should be used to delay the opportunities for first nations to have clean, safe drinking water and wastewater services.

Meegwetch.

[Translation]

Mr. Sébastien Lemire: *Meegwetch.*

The Chair: Thank you, Mr. Lemire.

I'll now give the floor for six minutes to Ms. Ashton, who is taking part in the meeting by video conference.

[English]

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

I want to begin by sharing my condolences for the family of Johnson Redhead in Shamattawa First Nation, here in our region. I know many members of the committee are aware of the tragic situation of a six-year-old boy who was missing for a number of days and was unfortunately found deceased. I'm sure that all of our thoughts are with his family and first nation at this time.

One thousand, three hundred and two—that's how many days have passed since the Liberals were supposed to end every single long-term boil water advisory in Canada. Here in northern Manitoba, in my constituency, Mathias Colomb Cree Nation has been without clean running water for more than four years. It's been almost six years for Shamattawa First Nation. We can't forget that this Prime Minister's preferred method of dealing with communities that don't have clean drinking water is to fight them in court. This piece of legislation only came about after the Liberals lost a class action led by a number of first nations, including Tataskweyak Cree Nation in our region. This shows the extent to which he has failed to get the job done. This is not a Prime Minister or political party that intends to lift first nations out of poverty. This is a government that will only do the right thing when it's forced to, like the \$57 billion in this year's budget for first nations that is court-ordered money. It's shameful.

I recently spoke with Chief Hill of Shamattawa First Nation and his team, following his cross-examination by Canada's lawyers. For those who don't know, Shamattawa and 59 other first nations are fighting the Liberal government over its missed deadline to deliver clean drinking water.

I'd like to quote a message I received from Chief Hill that highlights the rank hypocrisy of the Liberals. They may say nice things on one side, but it's what they're doing in court—where they hope Canadians aren't paying attention—that really matters.

Chief Hill shared this with me: “This litigation has been painful. Canada has decided to defend the case rather than come to the table as nation-to-nation partners. The cross-examinations were long and painful. My cross-examination took place over three days, and the lawyers for Canada went through the minute details of Shamattawa's finances. I was asked questions that sought to blame me and my band council for our long-term drinking water advisory. Rather than look in the mirror,” he went on to say, “Canada is pointing the finger at first nations for the entirely predictable consequences of its own actions. This is what happens when first nations take a stand. Canada says that it cares about reconciliation, but through this litigation, it has made clear that first nations are just an inconvenience. Canada's decision to fight first nations over access to clean drinking water is a national embarrassment. They are treating first nations like we aren't even human beings. It is no wonder why our members are the sickest, die the youngest and experience the highest suicide rates in the country.”

What's even more shocking is what the lawyers hired by the Liberals are saying in court, hoping no one pays attention. They argue that first nations don't have a right to clean drinking water. They'll argue that it's first nations themselves that are to blame for the lack of clean drinking water.

My first question is for the Chiefs of Ontario.

Do you feel like the government is doing enough for your first nations? Do you agree with this government's lawyers that first nations do not have a right to clean drinking water?

• (1715)

Grand Chief Abram Benedict: Well, thank you for the question.

I would say that it is obviously disappointing when we have to resort to the courts to see action. While there has been, as you outlined, a commitment to end the boil water advisories, that has not happened. Therefore, we had to work with the Assembly of First Nations to support a lawsuit for bringing that to an end. We are disappointed by the process that exists. Progress has been made; communities have come off boil water advisories. However, more progress needs to be made.

Do we like being in the courts? Absolutely not. Do we know there are solutions that can be found if we're sitting at the table? Yes. Have we had those conversations? Yes. Is it happening fast enough? Absolutely not. I described in my testimony how a 30-year boil water advisory in a community is not acceptable.

Ms. Niki Ashton: Thank you for sharing that.

Building on that, I want to read some of the things that Canada's lawyers are arguing when they are in court fighting first nations' access to clean drinking water.

They've said, “Canada does not owe any legal obligations or duties to operate and maintain the plaintiffs' water”, referring here to first nations' water systems. Moreover, “Canada has provided First Nations with extensive funding and support to operate and maintain community water systems.”

They say that Canada is doing what it should because “the great majority of First Nations have water that is safe to drink and meets the Guidelines for Canadian Drinking Water Quality”, knowing full well that so many communities are under long-term boil water advisories.

They've said that “Canada denies it has any legal obligations or duty to the plaintiffs”, meaning first nations, when it comes to a responsibility to provide or fund water infrastructure on reserve.

They deny there is a legal obligation to clean drinking water to first nations.

I find those statements absolutely chilling. It's particularly disgusting that they are being argued by our federal government as it actively fights first nations on the very basic issue of clean drinking water.

To other witnesses on the panel, I'm wondering how you feel about these statements.

Do you agree with any of them? Do you find issue with any of them?

Chief Erica Beaudin: I will be the first to respond to that.

First of all, sitting here as first nations, as the indigenous, original peoples of this land, everything that you have reported in the last six minutes we have been born into. We know all of these statistics. We live it every day.

In the legal system, people will say what they need to say in order to win. That is the type of legal system we have. It is not a justice system; it is a legal system.

As the original peoples of this land, what we have been told through treaty—and I'm speaking from a treaty perspective—is that with this covenant, which has been there from the newcomers or the Crown and the original peoples, as well as the Creator, we must work together.

We acknowledge that we were born into genocidal policies. We still are subjected to them. We still bury so many children and many more people than any other Canadian or people who live in what is now Canada. We know this because we go to the wakes and funerals. We understand the chronic underfunding.

What we do state here today, at least for myself, is that while this is going on, we have an opportunity with this bill, even if the government is currently faced with having to do the right thing. Yes, we acknowledge that the court has stated that they do the right thing, but we must still work together to ensure that the death toll goes down, that we have safe drinking water, that we have adequate funding and that there are legal tools in our tool box with the provincial, federal and first nations jurisdictional fight.

Thank you for the question. I don't think you'd need to have one without the other, or that only one is the right way to go. I think that the time is now for us to act and work together to get this legislation passed.

Thank you very much.

• (1720)

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

That completes our first round of questioning. We're moving to our second round, which is the five-minute round.

I believe that we will be turning it over to Mr. Shields.

Mr. Martin Shields (Bow River, CPC): Thank you to the witnesses for being here today.

I'm going to address this question to all four witnesses today to answer it, please.

On source water and protection zones, what's the definition that you need to see for what source water and protection zones are?

Mr. Irving Leblanc (Advisory Consultant, First Nations Safe Drinking Water, Chiefs of Ontario): I can try.

I can start that based more on a technical viewpoint. You delineated what is source water and what is source water protection.

The approach that first nations have looked at is more that of a watershed protection area. I think it really points to the discussion on protection zones. As some of the witnesses have said, we have jurisdiction over protecting the watersheds.

I think the definition is really problematic, and I think everybody has pointed that out. I have listened to these committee meetings over the last several weeks, and it's been raised as a question. Nobody's come up with a definition of "source water protection zones". That is going to be, I think, a major activity, major work that has to be done here. I think it's a very important part of it. The federal government has to come in there—and I know this was mentioned—to make sure that provinces work collaboratively with first nations in establishing these protection zones, because water doesn't end at the boundary. Water has no boundaries, so I think it's going to be one major area that will need to be looked at clearly. It's not clear in the legislation.

Mr. Martin Shields: I will go to the next one. You have said that it needs to be a coordinated agreement between all three levels then, and you said to use "watershed" as a term that may be synonymous with that.

Mr. Irving Leblanc: I think that's a very good place to start. Are you in our watershed? What's in our watershed? Who else is in our watershed? It doesn't matter whether there are boundaries within that watershed. It has to be approached, and in order to protect that for the environment, for everybody, those three levels of government have to work together.

• (1725)

Mr. Martin Shields: Good, thank you.

Next is Grand Chief Benedict.

Grand Chief Abram Benedict: I don't want to take too much time on this. I know that Grand Chief Debassige wants to speak to it.

The only thing that I would say about source water relates to an experience in my community, the community of Akwesasne, an hour south of here. It borders Ontario, New York and Quebec. I can tell you that an EPA project was happening in Massena, New York, where they were issuing water advisories and "don't consume the fish" advisories. That was for a river flowing into the St. Lawrence. There was no reciprocal agreement happening with Canada.

The problem with that is that you can't eat the American fish, but you can eat the Canadian fish because there are no PCBs or mercury in them. When we look at source water for the international line, there has to be a connection there as well because contaminants can come down. They are not going to stop at the international line and those intakes will be on both sides of the international line.

There needs to be collaboration that occurs for the safety of all of our people.

Mr. Martin Shields: Thank you for clarifying that.

Grand Chief Debassige.

Grand Council Chief Linda Debassige: Thank you for the question.

I believe that Canada needs to recognize, again, the inherent and treaty rights of first nations and to take the lead in bringing together the orders of government, both provincial and federal.

It's really about aligning laws and recognizing first nations laws so that water is protected at its source and so that our inherent rights holders are also on equal footing at those different tables.

Irving spoke about the watershed, those kinds of territorial areas, and I believe that an exercise does need to happen. I can't speak for any treaty nations on my own. I believe that we have to take the time to build that, but I do believe it is possible, and this really is a first step.

We can argue all day long about who did what and who didn't do what. I believe, again—and I'm going to say this again because I was a bit saddened that we're trying to make this into a partisan issue—that first nations absolutely have a right to clean, safe drinking water. Our children, our babies, our elders, everybody. We have been without that for far too long, and that's because of the colonialism.

Again, Canada does have an opportunity to recognize those and to bring the legal order or the government partners together to have those discussions in proper spaces.

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

Mr. Saunders, I know you have your hand up, but we're through with this round. There will be another round of questions.

With that, I'll turn it over to Mr. Hanley. You have five minutes for questions.

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

I want to thank all of the witnesses today for the really in-depth testimony.

Chief Beaudin, I have a couple of questions for you. I'm a public health physician, so I was interested when you brought up social determinants of health and how they relate to access to safe drinking water. Social determinants of health are things like education, employment, income and the presence of historical trauma.

Perhaps you can elaborate on how access to safe drinking water, particularly as enshrined in legislation, relates to social determinants of health in general.

Chief Erica Beaudin: Thank you for the question.

I don't think you could speak about the social determinants of health without the foundation being clean drinking water. I think every aspect, from bathing to consumption to...

Also, when I'm talking about consumption, I'm not speaking only about drinking the clean water. We just had a question about source water protection. We have the birds we eat and the fish we eat. We call the animals we eat "four-leggeds". When they do not have

clean drinking water and we consume them as food, our bodies become sick.

If we don't have complete balance in physical health and the ability for us and our animals to access clean drinking water, that leads down the pathway for kids to not go to school. When we talk about poverty, it's not only financial poverty, but also the poverty of education. With regard to mercury and other things in the drinking water, we also don't have the access to physicians for the different types of medical needs we have.

We're all interconnected, whether we're human or, like I said, the swimmers, the ones flying in the sky or the four-leggeds. We're all interconnected. Water is life. When we talk about the social determinants of health, if our animals aren't healthy and the water is not healthy, we won't be healthy. Therefore, we cannot contribute to our nation and to society—or what is now Canada.

• (1730)

Mr. Brendan Hanley: Thank you.

I'm going to leave you for a minute. I may not get to come back to you.

Deputy Grand Chief Achneepineskum, you talked about trust. I was intrigued when you said people have difficulty drinking water after an advisory has been lifted, which speaks to the trust citizens have, either in the advice that's being provided or in the integrity of the water itself.

I wonder how you see this legislation helping to support rebuilding that trust.

Deputy Grand Chief Anna Betty Achneepineskum: Thank you for that question.

Can you imagine being born and raised in a community where you've never been able to go freely to the tap and drink the water? You grow up in that community and are raised with that mindset, and then one day, you're told you're able to drink the water. That's very troubling for us to adjust to, so trust is a big issue.

I just wanted to add some comments on social determinants. We've had some individuals with very serious skin rashes. It's mostly children who have been affected. We also have citizens who are unable to get home dialysis because of the quality of the water. They have move to an urban centre in order to access dialysis—even home dialysis.

Something that everyone takes for granted is not taken for granted in many of our first nations communities.

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

[Translation]

Mr. Lemire, you have the floor for two and a half minutes.

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

Grand Chief Benedict, we see some continuity in the government's approach to developing the various pieces of proposed legislation, including Bill C-38, Bill S-16 and Bill C-53. That said, none of these bills have been passed into law yet.

Before I go on, I would like to say that I sense that the witnesses feel somewhat uneasy about the bill. We feel the same. I think that all the political parties share this view. Government officials must be able to clearly describe what constitutes a protection zone. The definition isn't clear in the bill. I have the impression that this aspect is currently missing from the bill. It seems that our proceedings would benefit from sorting this out. I would like to ask the Indigenous Services Canada officials to provide the definition of a protection zone.

Grand Chief Benedict, since the committee's first meeting on Bill C-61, I've always kept in mind the organizations created by the government and the province of Ontario, such as the Métis Nation of Ontario and the Algonquins of Ontario. These organizations operate on the ancestral lands of the Anishinabe people and claim rights to their territories.

As we can see, Bill C-53 has been set aside for the time being. The minister didn't want to raise this issue specifically to define their rights. He was told about the territorial overlap issue. Discussions are under way about subsection 12(1) and how it might be interpreted.

Do you think that much greater clarity is needed when it comes to determining what rights the first nations have to their territory, which first nations are recognized and who can speak on behalf of the first nations in this situation?

• (1735)

[English]

Grand Chief Abram Benedict: It is clear to me that this legislation only deals with first nations people and first nations people on reserve lands. The Métis do not live on first nation lands, so the legislation in its present form, which we are supportive of, does not affect Métis nations.

There is some language in clause 12 around modern treaties and self-government, but there is a policy that the department has under the inherent right policy. There are a number of communities that are negotiating self-government agreements, which are mechanisms that, for all intents and purposes, acknowledge the jurisdiction that has always been there for communities. If a community wants to develop legislation around safe drinking water, then that would be a vehicle under this legislation for that.

Also, as I mentioned earlier, in my community of Akwesasne, if it were devolved to the provinces, they would be relying on Quebec legislation and Ontario legislation to govern their water. Imagine having two systems, depending on where that water treatment facility is, and how you're going to do that. Also, having two sets of rules that your people must be trained on is not practical. Therefore, having mechanisms and legislation that recognize self-government agreements or modern treaties is a positive. This is not in relation to Métis rights, though.

[Translation]

Mr. Sébastien Lemire: Thank you, *meegwetch*.

The Chair: Thank you, Mr. Lemire.

[English]

Next we have Ms. Ashton for two and a half minutes.

Ms. Niki Ashton: Thank you.

We all know that the crisis of clean drinking water is directly related to the housing crisis on first nations. It recently came out that on housing the federal government has shortchanged first nations in the prairie provinces by a total of a quarter billion dollars. The Prime Minister and his cabinet have fundamentally ruled out reimbursing first nations in the prairie provinces from whom they stole that money.

In my riding, remote first nation communities like Garden Hill and Island Lake first nations, face one of the most acute housing crises in the country. Also, we know that for a community like Garden Hill, the lack of proper housing has meant that by the time water gets to them, it often becomes contaminated.

I imagine there are similar connections in communities across your region. The lack of climate-resistant infrastructure is also a real problem, when we're talking about water treatment plants, water systems, etc.

I know this makes it clear that resolving the clean drinking water issue means resolving the housing crisis. I'd like to open it up to whomever might want to share how the lack of adequate housing and adequate infrastructure affects your community's ability to have clean drinking water.

Grand Council Chief Linda Debassige: I've been delegated to speak to this question. Can you repeat your question succinctly, please?

Ms. Niki Ashton: Sure. How is the lack of adequate housing and adequate infrastructure connected to the crisis of clean drinking water?

Grand Council Chief Linda Debassige: I don't believe Bill C-61 speaks to the solution to the housing crises and the infrastructure crises. I'm actually a trained civil engineering technologist. I am educated and experienced in that. Although there are, I would say, connections to the drinking water crisis, I believe all three need their own respective legislation.

Today we're talking about clean, safe drinking water. Reports commissioned by the Assembly of First Nations have been provided to the Government of Canada—and MPs have access to those—in relation to closing the gap. There's also a housing and homelessness report. There were also Senate committee reports back in the mid-2000s, I think, that started to talk about how all of these were interrelated and what needed to be done.

At this point in time, we're studying Bill C-61, which is a step in the right direction. Bill C-61 will not solve the housing crisis. Bill C-61 will not solve the infrastructure aspect either; nor should we put them all together. They all have their own individual streams.

However, certainly, when it comes to clean, safe drinking water, we can't go very long. Not one of us, no matter what skin colour we have and what political party we represent, can live without water.

It's the social determinants of health question. When communities don't have access to clean, safe drinking water, what else are they drinking? They're drinking pop and processed things available to their community that also trigger other diseases that are common amongst first nations people.

I believe that when we get to the point of studying the actual bill for the water, we need to remain focused on that. Although there are other related infrastructure pieces that are all part of the whole, I think the suggestion that this act will solve the water crisis or the infrastructure crisis due to years and decades of colonialism since contact is unfair to this process.

Thank you.

● (1740)

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

That wraps up our second round today.

With that, I just want to thank all of our witnesses for being here today. The testimony you've provided will absolutely be helpful for the work we're doing. I know that many recommendations were brought up in your testimony today. However, if there are further things you would like to submit in writing, please do that. Those will continue to inform our work.

With that, do I have the will of the committee to adjourn?

The meeting is adjourned.

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