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# Standing Committee on Indigenous and Northern Affairs

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Chair: Mr. Patrick Weiler





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Thursday, October 10, 2024

• (0820)

[English]

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

Welcome to meeting number 123 of the House of Commons Standing Committee on Indigenous and Northern Affairs.

I want to start, as we always do, by recognizing that we are gathered on the ancestral and unceded territory of the Algonquin Anishinabe people, and express gratitude that we're able to do the important work of this committee on lands they have stewarded since time immemorial.

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

I would like to welcome the witnesses for our first panel.

From the Assembly of First Nations, we have National Chief Cindy Woodhouse Nepinak. Alongside her are Christopher Rapson, legal counsel, and Irving Leblanc, former director of infrastructure and safe drinking water.

From the Assembly of Manitoba Chiefs, we have Chief Betsy Kennedy, acting grand chief. She is joining us by video conference. From Cold Lake First Nations, we have Chief Kelsey Jacko. From the Kehewin Cree Nation, we have Chief Trevor John.

Welcome, everybody. You will each have five minutes for your opening statements, after which we will proceed with the rounds of questions.

With that, we will start with National Chief Cindy Woodhouse.

**National Chief Cindy Woodhouse Nepinak (Assembly of First Nations):** Mr. Chair, this is something a little different. Because this is my first committee appearance as national chief, I'm going to ask for a couple of extra minutes of your time.

I know the Creator gives us life today—all of us—so we can live and breathe. He is the one who provides us with clean drinking water and clean source water.

I know Chief Kennedy is on the line. Could I please ask Chief Kennedy to start us off in a good way and pray for this day and for all of us and our families? Thanksgiving is coming, and I'd like to ask her for that. I know this is an important issue, but I ask for your time as we stand and thank somebody above us who helped us be here today.

**Chief Betsy Kennedy (Acting Grand Chief, Assembly of Manitoba Chiefs):** Good morning.

Thank you, National Chief.

Thank you for this day, as it is very nice. Thank you to our Creator, who is here to bring us together in order to save our communities. We are here to protect the lands where we live and continue to. With the help of our Creator, we can, ourselves, help to preserve them and continue to do all we can on Turtle Island. We ask you to protect and guide us in what we need to do for our children and our future.

I say that. Amen.

**National Chief Cindy Woodhouse Nepinak:** It's so nice to see each and every one of you.

For those of you who don't know me, I grew up on a small first nation in Manitoba about a two-and-a-half-hour drive from Winnipeg. I want to thank Chief Kennedy for playing an important role during this transition time back at home. We haven't met; we're meeting for the first time today, so I thank you for all your work.

Before we go on, though, I also want to acknowledge a colleague of mine who has since passed. I want to acknowledge Grand Chief Merrick, and I also want to thank the chiefs here for joining me and thank colleagues and my staff from the Assembly of First Nations.

I am the national chief for the Assembly of First Nations, and I've been so for the last 10 months. I look forward to working with all of you for the full three years ahead.

I want to acknowledge that we are gathered here on the traditional unceded, unsundered territory of the Algonquin people. I would also like to thank the committee for inviting me to speak on Bill C-61 on behalf of the Assembly of First Nations.

The Assembly of First Nations has long advocated funding and resources to address the water crises affecting first nations. Historically, the federal government has failed first nations by chronically underfunding drinking water and wastewater service as well as implementing programs that have ignored first nations' rights and autonomy.

On June 5, the city of Calgary experienced a water main break, leading to a boil water advisory and conservation measures that dominated national headlines. This is in stark contrast with the media coverage of first nations' drinking water issues that have existed for decades. Compared to other Canadians, first nations living on reserve are 90 times more likely to lack access to running water.

For the past three decades, there have consistently been at least 100 long-term and short-term advisories in first nations, with 30 long-term advisories still in effect. First nations do not receive the same level of water and wastewater services as the general Canadian population.

Bill C-61 presents a significant opportunity to address this long-standing injustice. The Assembly of First Nations is confident that the proposed legislation before this committee addresses one of our most critical priorities: ensuring safe and clean drinking water and adequate wastewater services for first nation citizens. It is designed to address the long-standing water crises in first nations communities across Canada and ensure meaningful change.

The Assembly of First Nations has worked diligently to ensure that the legislation contains the necessary minimum requirements as articulated by first nations. Royal assent to Bill C-61 is a critical opportunity to address the issue and ensure that first nations have access to adequate drinking water and wastewater services and to programs that respect their needs, rights and self-determination.

Bill C-61 was jointly discussed and developed between Indigenous Services Canada and the Assembly of First Nations, and I commend people like Joanne Wilkinson, Phil Fontaine and Chief Linda Debassige, who, a few Christmases ago—over Christmas, everybody was resting—were there getting down to the work of this, so I lift them up in a good way. We also have Irving Leblanc beside me. I thank you for your hard work and dedication to our people for many, many years.

It marks a significant step forward in the recognition of the inherent rights of first nations and their jurisdiction over critical matters.

The current version of the proposed legislation has significant improvements to previous versions, and it reflects progress in addressing the critical components that were identified by the Assembly of First Nations during engagements held from 2019 to 2023.

The proposed legislation provides recognition of first nations' inherent right to self-government over source water. The Assembly of First Nations consistently advocated for the inclusion of source water protection that recognizes first nations' inherent right to self-government over drinking water, wastewater and associated infrastructure.

We understand that a source-to-tap protection is the safest, most efficient, effective, accepted and cost-effective approach to manage drinking water over the long term.

● (0825)

The proposed legislation has made efforts to address long-standing funding issues. Currently, funding to support the provision of water and wastewater services is determined through a fully discretionary approach by the minister.

Although we understand that including statutory funding transfers under the legislation would have provided assurances to first nations, the proposed legislation commits to developing a funding mechanism, in collaboration with first nations, for direct and long-term funding.

Under this legislation, the minister must consult and co-operate with first nations to develop a funding framework that provides adequate funding and meets the actual cost needs of first nations and ensures comparability with non-indigenous communities. Strong wording will continue to protect first nations and ensure they receive the necessary funding they require for years to come.

The proposed legislation includes important sections on standards. First nations are entitled to water quality, water quantity and wastewater effluent standards that meet or exceed the highest standards of other relevant Canadian jurisdictions to address the current federal regulatory void.

Based on engagements held from 2019 to 2023, the proposed legislation now specifies the standards applicable for water quality, water quantity and wastewater effluent for both public and private systems, based on an assessment of all existing and potential future needs.

It must protect and provide opportunities for first nations to develop their own standards and address all of their water needs, from domestic and institutional to commercial and industrial demands that help first nations grow.

This is an important inclusion of first nations' governance resources and support in the proposed legislation. This includes a commitment to establishing a first nations water commission to support the purpose and principles of the legislation.

Under the legislation, the minister will consult and co-operate with first nations on the development of terms of reference, a defined period for co-development and a commitment to funding. It enables the creation of first nations governance institutions, which must be led by first nations in their own ways and at their own pace.

There is an important mechanism for transboundary agreement making. Although the Assembly of First Nations did not co-develop the language for the sections related to the protection zones, as a result of its advocacy, the proposed legislation includes a provision for transboundary source water agreements, ensuring first nations are involved in all agreements that affect them.

Protecting source water that is often located off-reserve is critical. These areas are within the traditional and ancestral territories of first nations where provinces and territories have extensive jurisdiction. Addressing on-reserve waters alone is insufficient; source waters that provide drinking water for first nations must also be protected.

A key concern raised by first nations is immunity and liability. The proposed legislation states that no employee or person hired by a first nation can be held liable if they acted in good faith in their duties in the provision of water and wastewater services. A first nation may still be held liable, and it's important to recognize that sufficient funding goes hand-in-hand with accepting liability. No first nation is prepared to accept liability for an underfunded system.

The Assembly of First Nations is committed to defending against amendments that would diminish or otherwise weaken the proposed legislation. We must ensure that this legislation is as strong as it can be, and to that end, we are advancing amendments to improve the bill in the following ways: protection zones; standards, such as the requirement that the quantity of water would meet all needs, including agriculture, fire protection, industrial, commercial, etc.; the funding framework; the first nations water commission; liability, immunity and indemnification; and, finally, references to best efforts.

Details of these amendments are contained in our written submission, which has been provided to this committee.

Currently, without legislation in place, there are no enforceable standards or regulations, no recognition of rights to govern water and wastewater on first nations' land and no sustainable long-term funding mechanism. Comprehensive legislation compliant with UNDRIP will further Canada's commitment to reconciliation. The urgency of this issue has been stated for decades; now is the time to act.

In closing, Canada recognizes the human right to drinking water and sanitation and has obligations to all first nations. This is an important moment for Canada and for first nations. We look forward, and we look to you for your support in moving this forward in a good way.

I just want to say *chi-meegwetch* for this very important matter. Thank you for your time on this.

● (0830)

It's an important moment for all of us.

*Meegwetch* for welcoming me here today.

**The Chair:** Thank you very much, National Chief.

Next, in the opening statements, we will turn the floor over to Acting Grand Chief Betsy Kennedy from the Assembly of Manitoba Chiefs.

Chief, you have five minutes or less for your opening remarks.

**Chief Betsy Kennedy:** Good morning.

I want to thank the Standing Committee on Indigenous and Northern Affairs for the opportunity to speak with you today on Bill C-61.

I am the chief of War Lake First Nation and appear before you as the acting grand chief of the Assembly of Manitoba Chiefs.

I would like to begin my remarks by explaining the significance of the water crisis for our first nations in Manitoba.

As we all know, lack of access to drinking water has devastating effects on our health. Some, however, may be less familiar with the host of adverse effects it has on well-being. Many of our children living in these first nations without proper drinking water are very sick. They develop conditions for which they have to seek help every day of their lives. Sometimes it goes on until they become adults. This is very stressful for families. They don't know who to turn to, sometimes. I have seen it. My own family is going through the same thing—first nations having boil water advisories.

I also want to state that we support Shamattawa in their concerns over drinking water. We should have access to the same drinking water as everyone else does across Canada. We have a legal right to be there, to have access to clean drinking water and to have water in every first nation across Canada.

Important teachings and knowledge that should have been passed down over generations have been disrupted. These losses have created a disconnect between first nations and the land, a relationship that is fundamental to our world view. The resulting impacts on well-being, spirituality and concepts of identity cannot be overstated.

On the foundation of this knowledge, I want to express concerns about how this bill impacts first nations' right to self-determination.

The bill follows a framework similar to existing Canadian laws, which limit the recognition of first nations' inherent right to self-government through the legislative approach. In short, Parliament is telling first nations how to enact laws in their inherent jurisdictions, subordinating first nations governments and undermining the nation-to-nation relationship. The AMC rejects the notion that first nations' jurisdiction and lawmaking authority is contingent on federal legislation. One nation cannot control or validate another in a true nation-to-nation relationship. It requires equal recognition of the laws and authority of each other.

Also concerning is the fact that the bill only recognizes first nations' jurisdiction on first nations land, as if water is stagnant and does not flow from one jurisdiction to another. I want to emphasize what the national chief said about water running and flowing in many directions. It's not just first nations' water that we utilize; we also live off reserve. The spring waters are in areas we also want to protect.

• (0835)

As a result, there is no recognition of first nations jurisdiction on much of the treaty and ancestral territories of first nations in Manitoba.

Overall, the proposed act fails to fully recognize first nations jurisdiction and conveys lack of respect for our laws. It only recognizes first nations authority over water resources within the confines of first nations land, despite the fact that the water knows no boundaries.

When we see buildings or roads being built, the builders don't meet with the first nations. We know where these waters are—the wells that have been there for a long time. They're just being bulldozed. Those are the waters that we would like to protect. Those are the waters that are clean. Some of these waters are not just for drinking; there are minerals in there that help in the way of medicine.

In order for us to protect the water, we would like to include in Bill C-61 water protection. It's not just within our communities on reserve that we're protecting the water, but it's also the waters that run outside. The water is all over, and we would like to protect that.

There are a lot of industries in operation. That's the reason many of us are going through these issues with health. The issues of health really undermine what we try to do to protect our children and grandchildren from some of these diseases. That needs attention.

The doctors do—

• (0840)

**The Chair:** Chief, I'm very sorry that I need to do this. We are running over time for opening remarks.

There is going to be time once we get into the rounds of questioning. If you're able to hold that thought, you can get back to it then.

**Chief Betsy Kennedy:** Thank you.

**The Chair:** I'm sorry that I need to do this.

We will turn it over next to Chief Kelsey Jacko from Cold Lake First Nations for five minutes or less for an opening statement.

**Chief Kelsey Jacko (Cold Lake First Nations):** Good morning.

I am Chief Kelsey Jacko of Cold Lake First Nations. Thank you for taking the time to listen today.

Thank you to Chief Cindy Woodhouse for helping to make this happen.

You have our written technical statements, but today I want to speak from the heart. I want to acknowledge that we meet today on the lands of the Algonquin people who have been, and still are, caring stewards of the land.

In my culture, as with all peoples who are connected to the land, water is life. Before we're even born, we are in water inside our mother's womb. *Lue Chok Tue* and *Ha Tue* have been the womb my relations have centred their lives around from time immemorial. The people moved within the seasons—to *Ha Tue* for trapping and

winter camp and to *Lue Chok Tue* for the summer months. Our treaty practices depend on these waters. In treaty, the phrase “as long as the river flows” is about my people's ability to continue living and bringing forward new generations. It's also life for our fish, animals, birds and bugs.

We understand your objective with the water legislation and we agree that source water protection is key. The issue is that the legislation provides no real tools. It is more of a suggestion than legislation.

My nation is fortunate to have much lower industry and agricultural allocations than the volumes impacting most nations. Still, as the indigenous population grows, we will be last in line for water, even though we've been here long before Europeans could even find this continent. Unless something changes, our concerns will always be last in line when it comes to water.

The historical unwillingness of Canada to fund on-reserve water infrastructure has put most nations in the position of being last in line under Alberta's First-in-Time, First-in-Right legislation. Other provinces have similar legislation, and until our inherent rights are recognized within the legislation frameworks, our communities are at risk.

In Alberta, we have a lot of problems with water, as our growing population demands more and the lands get drier. Will the North Saskatchewan one day be like the Colorado and not reach the sea? Will our industries and cities collapse with our environment? The Bennett dam destroyed the livelihood of our Dene cousins in Fort Chipewyan.

In Treaty 7 territories, only 7% of the resources are allocated to fish, wildlife and general habitat management. In-stream requirements, the ones that sustain the critical habitats, are not well understood. To be clear, we do not know if the amount of water currently being left is enough for fish. We certainly don't know the appropriate amounts for wetlands and the aquifers that support them—and by “we”, I mean humanity.

Today we have provinces, regulators and industry working to release oil sands water into the river or releasing it by accident—and they're lying about it, as with Kearl. We know that Canada is working with industry on slow release, but this isn't the way. They said that they could clean it, and they should. Instead, they hold it hostage.

In my area, we see water lines being built to suck large volumes of water out of our lake for industrial and domestic use. This year, the lake was so low that the water withdrawals had to be suspended, and the place where our kids learned to kayak and canoe had 50 metres more beach. This means that industry just switches to groundwater. However, these aquifers have fallen as much as 30 metres because of oil sands' use.

The AER, the Alberta Energy Regulator, lets companies pollute shallow groundwater so long as they stay on lease. These companies can just leave, but my people will be here forever, bringing forward new generations.

The watersheds we depend on flow right through the Cold Lake air weapons range, draining from Alberta and Saskatchewan. We will have to deal with three governments. I will say that the DND and Saskatchewan have both been supportive of efforts to expand protection of the land base, and Parks Canada is working with us on creating an ecological corridor that will protect the largest river flowing into our lake, but generally, we know that climate change is going to bring more low-water years. No one seems interested in the kind of monitoring and management required for sustainability.

We acknowledge that the legislation is a sincere attempt to move forward on a complicated issue. We need to see it provide more actionable solutions, tools that we can use. At the regulatory level, the majority of the considerations around the water are for use. Consideration for the environmental impacts of lowered water tables and in-stream availability come dead last. This is not a way to uphold treaty.

CLFN belongs to a regional utility board that is a partnership between my nation and our immediate neighbours. Many of these neighbours draw their water from Cold Lake. We are doing our best to work together to manage local resources.

- (0845)

However, Alberta won't even share the key performance indicators it uses to ensure that water allocations are sustainable. The Alberta government has demonstrated that it is unwilling to enforce water rationing on industry, even in times of crisis. What makes Canada think they will work with us on prevention?

Industry oversight is mostly reliant on self-reported statistics. As we have seen recently with methane release, these numbers are unfortunately rarely reliable. Because of the importance of the land and our treaty rights to all treaty peoples, putting source water protection into the hands of the nations will help to address the principal/agent problem that most governments face.

My understanding of the intent of this bill is that its purpose is to give nations clear tools with which to uphold their inherent rights to water. However, the current version of the bill contains no material recognition of these rights. Instead, it reads like a joint venture option.

You have to understand that nations never gave up their right to care for the water. This is what we mean by inherent rights. The concept of owning water at the time of treaty was like saying you owned the stars: It is an outrageous impossibility. Canadian law already recognizes this concept. You sell the right to access, move, use and pollute, but not the water itself.

If you are serious about protecting source water and acknowledging the inherent rights and responsibility of first nations as protectors, I ask that you consider what the bill offers on the ground for our technicians, particularly for those nations that are being asked to partner with unwilling provincial governments or that will be forced into a four-way partnership, as CLFN would.

If your goal is to be good treaty partners rather than asking the province to co-operate, you need to recognize the interjurisdictional nature of this resource and employ the jurisdiction space available to you in this bill.

*Mahsi cho.* Thank you for your time.

**The Chair:** Thank you very much, Chief Kelsey Jacko.

We will move to our fourth and final opening statement, which comes from Chief Trevor John.

You have five minutes or less.

**Chief Trevor John (Kehewin Cree Nation):** Thank you.

First and foremost, I'd like to thank the Creator for blessing us all with a beautiful day and this time together.

I would like to thank our national chief, Cindy Woodhouse Nepinak, for helping us get this time together with all you folks.

I'd like to thank the elder for blessing us with a prayer this morning. It's always good to start out with a prayer in our culture, so *hay hay* to Elder Betsy.

For those of you who don't know me, my name is Chief Trevor John. I'm from Kehewin Cree Nation, Treaty No. 6, Alberta region.

*Tansi, boozhoo* and hello.

Kehewin Cree Nation, like many of our neighbouring Cree tribes, sits near a water source. This is no mistake. Our ancestors, at treaty time and along with the dominion of Canada officials, marked out spaces that the Indian Act calls reserves, where our people would have access to the basic human right of safe drinking water. The treaties themselves are referred to as lasting in perpetuity for as long as the sun shines, the grass grows and, yes, the waters flow.

Canada has a lasting obligation under this relationship created by treaty to ensure that treaty first nations are supported as far as water and related infrastructure are concerned. This bill intends to abandon all of this in favour of section 35 rights of self-determination. This is wrong, shameful and unethical, yet here we are in 2024 with exactly that.

It must be said that the preamble of Bill C-61 has good-sounding words and all the right language about reconciliation and recognition. It sounds good on the surface for sure, but it doesn't bind Canada or Alberta to ensuring that the legislation does what the intent of the preamble is—that is, to ensure safe and viable water and water infrastructure beyond best efforts.

If this bill goes forward, we feel it will not be linked to treaty-based implementation, planning objectives or milestones. Bill C-61 looks like lip service to a nice future but does not meet the reality we have with the Province of Alberta. This bill does not guarantee or bind Alberta, and based on our extensive experience with Alberta, there is no current recognition or relationship that enables us to be sure that our peoples will have sustainable infrastructure.

The title of Bill C-61 is “An act respecting water, source water, drinking water, wastewater and related infrastructure on First Nation lands”.

Inside the bill it says, “on, in and under the First Nation lands”, and jurisdiction under treaty means the whole of the treaty territory. For many of our nations, that goes well beyond provincial lines whereby our reserves are designated. This is what needs reconciliation if the bill is to mean anything.

Canada, under its declaration action plan, states a commitment to “honourably implement historic and modern treaties” consistent with article 37 of the United Nations declaration. Bill C-61, in Canada's processes to discuss it, needs to work on it through this.

As a chief of my nation, this is not honourable with regard to the UN declaration commitment, and this bill, like those that came before it, will fail us.

Bill C-61 provides treaty first nations with no assurance for improving water health and meeting current or growing water infrastructure needs. It contains significant loopholes for Canada to delay implementation and decisions on commitments to providing funding for addressing long-standing needs. It does not contemplate binding obligations to ensure adequate or consistent resourcing for needs or how those real needs could change over time, considering climate change and other related impacts.

The bill says Canada will use “best efforts to ensure...access to clean and safe drinking water” on reserves, but this is not binding. With no clear implementation plan that considers actual and full costs according to those needs, we are setting the stage for new challenges for the next generations. This is not acceptable.

● (0850)

Canada often talks about a whole-of-government approach in relation to reconciliation. On water, the potential of this is something that could be supported with a treaty bilateral approach, but instead, Canada, this summer, through an order in council, gave permission to the Alberta, the Saskatchewan and the Manitoba provincial governments to reapportion water for their purposes, without a single interaction with our governments. This is not a good start for us to feel any assurance that “best efforts” language will help us and that our needs for water and related infrastructure will be prioritized.

Since 2019, Canada has indicated that it would be gradually transferring all programs and services to willing first nations. It is using comparability standards that are provincial standards in the implementation of the transfer of responsibility and calling that “self-determination”. It seems to us, as treaty leaders, that Canada, through ISC, is trying to leave its legal obligation because it knows what we know, because we have told them: The infrastructure gap in our nations is much larger than what AFN has told them.

Today, I'm asking on behalf of my peoples for Canada to get real and work with us to address the actual needs it's responsible for under treaty. As we have told the ministers, “treaty” means good faith dealing to adjust to the actual water and infrastructure needs of the nations and to ensure Bill C-61 is amended to address those needs as promised under the treaty relationship.

*Hay hay.*

● (0855)

**The Chair:** Thank you very much, Chief.

With that, we are going to go into our first round of questions. I am going to be reducing it a bit because I do want to get a chance to go through two rounds. We'll go for five minutes each for the first round here.

We will be starting with the Conservative Party.

Mr. Melillo, you have five minutes.

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

I want to thank all of the individuals for joining us to talk about this important legislation.

I want to start by also offering my condolences to Chief Kennedy on the passing of Grand Chief Merrick. I know it came as a shock for many people right across the country, including me. I was actually planning to meet with her just around that time, so it came as quite a shock.

I want to thank you for your work here in the interim and for being here to ensure that the Assembly of Manitoba Chiefs does have a voice during this important discussion.

I'll start with you, if I can, Chief Kennedy.

I'm curious if you can describe the Assembly of Manitoba Chiefs' involvement during the consultation process in the development of this bill.

**The Chair:** Chief Kennedy, you'll have to move your microphone down so that we can hear you.

Thank you.

**Chief Betsy Kennedy:** Thank you.

AMC developed a proposed draft of a first nations water strategy in 2013 through a process that enabled first nations in Manitoba to come together and express their views and to share their knowledge. This draft outlines key issues and actions related to water rights, access, protection and management that could be built upon the context of Bill C-61.

Thank you.

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



I want to ask National Chief Woodhouse a question.

We've heard from officials at ISC and witnesses here at the committee that the government has incorporated direct feedback from first nations in the development of this bill. Can you give any examples of direct feedback from AFN that has been incorporated into Bill C-61?

**National Chief Cindy Woodhouse Nepinak:** I'm going to have to ask my staff for that, please, because they went through the notes thoroughly.

**Mr. Christopher Rapson (Legal Counsel, Assembly of First Nations):** Thank you. Good morning to the committee.

One of the key examples of direct feedback from the AFN and from first nations that has been incorporated by the government in the draft bill is the protection of source water. I think that is really the key example. That's done through a number of mechanisms, but that's really the key change from earlier drafts that reflected input from first nations and from the Assembly of First Nations.

**Mr. Eric Melillo:** I appreciate that as well. Thank you.

I do want to come back to the national chief or whoever will be answering.

You did mention some amendments, and there is one around protection zones as well. I know that there is a brief, but for the committee and for those who may be watching, would you be able to describe in more detail what the amendment coming from AFN around protection zones will be?

• (0900)

**Mr. Irving Leblanc (Former Director, Infrastructure and Safe Drinking Water, Assembly of First Nations):** I'm sorry. I couldn't quite pick that up, Mr. Melillo.

**Mr. Eric Melillo:** The national chief alluded to an amendment pertaining to protection zones. I'm wondering if you could speak to that proposed amendment.

**Mr. Irving Leblanc:** Unfortunately, I had already left the AFN when those amendments were made. I'm going to refer to my colleague here on those amendments.

**Mr. Christopher Rapson:** Thank you for the question.

This is one of the key amendments that the AFN is putting forward with respect to the bill.

Looking at protection zones, the draft as it stands only partially recognizes "first nation" and affirms first nation jurisdiction over source water off reserve. In fact, it makes that recognition and affirmation contingent on first nations reaching agreements with provincial, federal and territorial governments.

Now, as you've heard from other witnesses, that jurisdiction—the inherent jurisdiction of first nations to protect their source waters—is not contingent on federal legislation, either in this bill or any other legislation. It's not contingent on those first nations reaching agreement.

The amendments that we're putting forward are to fully recognize that jurisdiction. One mechanism that we're putting forward for doing that is looking at a mechanism that's already been tested

and endorsed by the Supreme Court of Canada. That is the mechanism in what's referred to as Bill C-92, an act respecting first nations, Inuit and Métis children, youth and families.

That mechanism, we think, would do justice to the first nations with respect to the recognition and affirmation of their inherent jurisdiction over source waters and protecting those source waters.

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

We'll next move to our second questioner here.

Mr. Carr, you have five minutes.

**Mr. Ben Carr (Winnipeg South Centre, Lib.):** Thank you very much, Mr. Chair.

I want to begin briefly on two personal notes and echo some sentiments that have been shared already.

To Grand Chief Kennedy, it's a pleasure to be with you here this morning. As the sole Manitoba representative around the table, I can certainly share the feelings of many in Parliament and across the province of our grief and shock about the passing of Chief Merrick. I'm very much looking forward to working with you and continuing the legacy, path and vision that she set forward as you undertake these important responsibilities as grand chief of the AMC.

Chief Woodhouse, this is a special moment for me, because you and I have known each other since we were 15 years old. I have seen you work hard and grow into an inspiring and meaningful leader. Much of my understanding of our history as it pertains to first nations people, our public policy development and our path towards truth and reconciliation has been informed by the mentorship, guidance and friendship that you have provided to me over the years. To be with you in this capacity is quite special to me.

I want to take a step back, National Chief, and ask you to more broadly address the evolution in the past number of years of where we have come on this water file, in your view. As regional chief, it was one that you invested a fair amount of time in developing.

I'm wondering if you can provide some commentary about how you have seen the evolution of our public policy around the protection of first nations' rights, particularly as it pertains to water, from your time as regional chief, and then where we're at here today as we're talking about implementing the legislation found in Bill C-61.

**National Chief Cindy Woodhouse Nepinak:** Certainly, and thank you for that.

It's nice to see you this morning. I can't help but remember your dad as he walked these chambers. My heart goes out to you and your family, and I send my sincere condolences on his passing.

I'm glad that we're sitting here together today. It's nice to see all of you.

I have to say that this is a very important moment for first nations in Canada. I know that there was an old bill, and we're repealing it. Let's not go back to the way that bill was done in the past. It was very hurtful towards first nations. I also know that co-development isn't easy, and I know we're here and talking about amendments to this bill.

In growing up on a first nation community when I was a little girl, I could easily drink from the water. I grew up there. I know that we've come a long way in first nations communities, but we haven't come far enough. I think, after watching the way the first piece of this was done, that had it been done right back then, I don't think we would have been sitting here today. We would have been on a different track. We're here now, and we're here now together. We're here to try to work towards a bill that we can agree on. We heard the amendments from many speakers before me, and I think that if we can put some of those pieces into this legislation, we'll move this along very quickly.

At the same time, I know that first nations have never ceded their jurisdiction over their traditional waterways or source water. The United Nations General Assembly recognizes the "human right to water and sanitation" and the right to a clean, healthy and sustainable environment. We don't have that right now, so I know that legislation is a necessary tool to ensure meaningful change to the current water crisis faced by first nations across Canada.

Legislation and how it's developed are critical to the quality of life and self-determination of first nations. The process involves more than consultation, however: It requires co-operation and working together in good faith. This is the core of co-development that speaks to a two-way collaborative process. This is the foundation of the commitment Canada has made through section 5 of the federal UN declaration act, UNDA, which requires the following: the proposed legislation must meet this bar. All eyes will be upon it to assess whether it does that and whether Canada is sincere in the commitments made in UNDA.

This is an important moment for first nations in Canada. I know that on a first nation, we don't have the simple things that many Canadians take for granted. I've lived in two first nation communities. In either place where I've lived, I've never had access to clean drinking water. I'm so used to drinking bottled water that it's sometimes hard, when you come off reserve, to have to drink water like this water that is beside me here today, because we're so used to drinking bottled water. I think that's the reality for many first nations in this country, and I look to a time when we can fix that.

It also disheartens me when I see fishermen in Lake Winnipeg. I have to say that the first nations fishermen in Winnipeg are pulling up nets that are full of stuff. We have to do better in this country. On the waters, it's starting to show. The animals are starting to show us that. Our people are starting to show us that.

I look forward to working with all of you to find that path forward, and I think this is a right step in that direction to move in a good way together.

Thank you.

• (0905)

**The Chair:** Thank you very much, Mr. Carr.

[*Translation*]

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

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

First of all, I'd also like to extend my condolences to Grand Chief Kennedy and to all the members of Manitoba's first nations.

Grand Chief Woodhouse, we've heard calls from a number of indigenous organizations for changes to strengthen the bill and ensure that their treaty rights, such as the rights to their lands, are not suspended or eroded by the new legislation. A number of arguments were heard at the Assembly of First Nations general assembly in Montreal last July, which I attended. A number of arguments have also been presented to this committee. However, we haven't yet received the brief from the Assembly of First Nations. Can you give us a concrete description of the amendments you are recommending? You've mentioned them, but I'd like us to be able to write them down more accurately.

[*English*]

**Mr. Christopher Rapson:** Thank you for the question.

With respect to the treaty rights of first nations, again this comes back to protection zones.

We understand that the bill does not at this time have a definition of "protection zones", so one of the amendments that the Assembly of First Nations is putting forward is the beginnings of a definition for protection zones that would include both the traditional territory and the treaty territory of first nations when source waters flow from those territories to first nation lands.

Also, of course, there is an inherent and treaty right for first nations to protect the source waters in those territories, and our amendment would reflect that.

• (0910)

[*Translation*]

**Mr. Sébastien Lemire:** How do you think this is coordinated with the provinces, which are responsible for water management?

[English]

**Mr. Christopher Rapson:** This comes back to the mechanism I referred to earlier. That's a mechanism that's already been, as I said, tested and endorsed by the Supreme Court of Canada with respect to the coordination and application of laws in places where there are overlapping jurisdictions. We believe that this mechanism, adapted from what was known as Bill C-92, would provide for dealing with those overlapping jurisdictions and the coordination of laws in a way that respects first nation jurisdiction, both inherent and treaty rights.

[Translation]

**Mr. Sébastien Lemire:** How do you see negotiations when waterways flow through more than one province? How are protection zones and protected areas defined?

I'm thinking, for example, of the Kitchissippi River, or the Ottawa River: Beyond jurisdiction, how can we guarantee protection and ensure water quality?

[English]

**Mr. Christopher Rapson:** It is about coordination. We live in a country of co-operative federalism. That requires the provinces, the federal government and first nations be at the table to discuss and negotiate when jurisdictions overlap.

Unfortunately, if one of those parties chooses not to come to the table or refuses to enter into an agreement, that can, obviously, stall the negotiations and leave us in a deadlock or a stalemate.

That can't be allowed. We can't be frustrating first nations jurisdiction in those circumstances. It is inherent. It does come before other jurisdictions and should be given the force of federal law and therefore paramountcy over provincial laws when provincial governments refuse to enter into such coordination agreements.

[Translation]

**Mr. Sébastien Lemire:** In the spirit of nation-to-nation dialogue, I would kindly invite the Assembly of First Nations to make its documents available in French. It would obviously be easier for francophone communities, the majority of which are in Quebec.

What could we add to the preamble? In the opinion of all members, there's a fundamental element missing from the preamble. An element should be added to recognize the importance of treaty development and reconciliation initiatives, as well as to guide constructive partnerships.

[English]

**Chief Kelsey Jacko:** Yes, it is kind of hard when you're talking about talking with the provinces.

Our treaty predates the making of the provinces or whatnot, and it's about trust. A lot of a lot of provinces are not transparent with first nations. We have to be a part of the monitoring to make sure that the water is safe.

As I said, we're last in line, and it shouldn't be like that. We were here before the creation of Canada. It's kind of hard when you have an unwilling partner to work with, so a lot of the times talks go into stalemates or they stand still. It's very frustrating for first nations.

[Translation]

**The Chair:** Thank you very much, Mr. Lemire.

[English]

Next we'll be going to Ms. Idlout, who is joining us by video conference.

You have five minutes or less.

**Ms. Lori Idlout (Nunavut, NDP):** *Qujannamiik, Iksivautaq.*

Thank you to all of the witnesses for appearing before our committee on such an important matter.

I share the sentiments with acting Chief Betsy Kennedy on the sudden loss that we all experienced with the loss of Chief Merrick. She had such an important role, and for you to take on this role at this urgent time is much appreciated. Thank you for sharing your testimony as well.

I'm quite honestly frustrated with this committee, because we've been limited in our time to ask so many witnesses questions. I'm frustrated with this committee that we're trying to rush through as many witnesses as we can, especially knowing that out of the 634 first nations, only about 31% were consulted in the development of this bill.

In my eyes, this is not meeting the standard of the duty to consult. I think it is so important that we hear from as many witnesses as possible.

We had great testimony, for example, from Chief Trevor John, who shared very clearly what the concerns are around source water, jurisdiction and sustainable infrastructure. Those things in the bill are not clear enough, especially in this time when we all know that first nations managed water with their own laws before Canada stole your jurisdiction, and for them to try to hand it back in Bill C-61 is completely unacceptable.

We need to do a better job of ensuring that first nations treaties are being implemented and that first nations' human right to water is being upheld, and we're not seeing that in Bill C-61.

Chief Cindy Woodhouse Nepinak, congratulations on becoming the National Chief for the Assembly of First Nations. I wanted to point to the Federal Court case with Shamattawa First Nation, in which the federal lawyer, Scott Farlinger, at first acknowledged that there's been a historic underinvestment in first nations' water, but also shared his argument that "everything is better now".

Can you respond to that, please, Chief Woodhouse?

● (0915)

**National Chief Cindy Woodhouse Nepinak:** Thank you.

I can, absolutely. We stand with Shamattawa. I grew up the way that.... I feel for the people up there, and I invite this entire committee and Canada to come visit our communities and see the reality of what our first nations face day to day with basic human rights like access to drinking water and source water.

Sometimes you go up to these communities and you come back down and you realize the disparity that many of our first nations are facing. This country has a lot to answer for over what we've been through for the past 150 years. I know that's not what we hear about the relationship between first nations and the rest of this country. I'm glad that we're finally here, having these really difficult discussions with each other. They're not always easy, but they're absolutely necessary, even when it comes to things like safe drinking water and sanitation.

I know there's a lot to work through. I know this is a really tough issue, and my heart goes out to Shamattawa First Nation.

Canada, you have to right that wrong with Shamattawa First Nation. We can't leave them hanging. For the minister, I'm glad about her comments on water and trying to work that way, but for the Department of Justice lawyers to go out and say the statements that they're making.... The right hand needs to know what the left hand is doing when you're going out there and speaking to my people, speaking to first nations. You can't say one thing on one hand and then have your lawyers coming to say something else in a legal way. The political way—yes, okay, there's that will. I'm glad you're all here today. I commend all of you for sitting here with us.

At the same time, when your lawyers are writing all these laws, that's where the mistrust comes from us. These lawyers are there, and then they go into court and they say stupid things like that to first nations. They make us feel like.... I thought we were making progress.

It's hard as national chief to hear that the day before. I'm glad that we're working on this legislation and trying to co-develop and work through some of these pieces together, but we really have to work stronger together. Obviously, you're seeing the cracks in it, even before this committee happened this morning.

As I said, my heart goes out to the Shamattawa First Nation. Canada, right that wrong with them.

Thank you.

**Ms. Lori Idlout:** Thank you so much.

My next question is to—

**The Chair:** I'm sorry, Ms. Idlout; I'm going to have to cut you off there. I apologize for doing this, but we are over time. You will have another opportunity to ask a question.

We are going to move into the second round of questioning. I'm going to cut it in half. I want to make sure that everybody has an opportunity to have another intervention here.

I'll be going to Mr. Shields for two and a half minutes.

● (0920)

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

Thank you to the witnesses for being here.

Thank you for the statement of “despite...ministers publicly acknowledging federal responsibility for water crisis, they continue to support a completely contrary position in court.” That came from the Manitoba federation yesterday. I appreciate that.

When I look at this legislation, I see the Canadian government, the provincial governments, the Canadian water commission and the indigenous water commission. No matter what you say, with this legislation, we're not going to fix the water crisis tomorrow. We're going to be in court for years. You know that.

If this legislation said that we empower the government to build water treatment plants in co-operation with every nation in the country starting tomorrow, we could set up regional training centres with support staff to train water treatment people who are available 24-7. We could set up a system so that supplies for those water treatment plants were available, just like emergency transfers for health, so that you'd have a fly-in plane to bring a part to you immediately. If we had legislation that said that, we could start fixing those problems quickly. This legislation tells me that we're going to be tied up in court for years, and you're not going to get clean drinking water for years.

We need to change the legislation so that we're taking action now. This legislation doesn't do it. It's going to tie us up in court for years across many jurisdictions. I want the water fixed now. Don't you? Yes. This legislation isn't going to do it. This is just going to tie us up in court.

**Mr. Christopher Rapson:** I'm not sure if there was a direct question in that.

**Mr. Martin Shields:** I'm frustrated.

**Mr. Christopher Rapson:** I understand.

**Mr. Martin Shields:** I've listened to people. I know the issues. I know what water treatment plants are. I've been in that business. We could fix this if this legislation did that. It doesn't do it. It ties us up with water commissions and indigenous and provincial and federal governments. We're all going to be in court. That doesn't give you clean drinking water and doesn't start it.

**Mr. Michael McLeod (Northwest Territories, Lib.):** I have a point of order.

**The Chair:** Go ahead on a point of order, Mr. McLeod.

**Mr. Michael McLeod:** Mr. Chairman, I know Martin is excited and is on a roll, but he's not speaking into the mike. For people like me who have hearing issues, it's hard to follow.

**Mr. Martin Shields:** I'm sorry.

I think I was pretty clear. I'm very frustrated. I'm frustrated with legislation that I believe is just going to end up in court, with jurisdiction and jurisdiction and jurisdiction fighting. There isn't a process in this legislation that allows for it to move forward, to start building water treatment plants, training staff, having equipment ready and parts delivered. That's what needs to be done. This legislation is just going to set up court action, disputes and years of legal wrangling.

I want to see something happen so that she can drink clean water out of a tap and so you can wash your kids in a bathtub in your community and not fear that they're going to die from some cancer-related issue. That's what we need to fix.

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

**National Chief Cindy Woodhouse Nepinak:** Thank you. I'm just going to say something on that, and I'm going to give you both heck, the Liberals and the Conservatives.

The Conservatives had a 2013 bill that we had to repeal. That's why we're here. We're trying to fix that through this bill. I know that we have a long way to go, but I think you're both at fault.

My knowledge keeper here has been working in first nations for us for his entire life, so I'd like to give him the honour and respect of saying a few words.

**Mr. Irving Leblanc:** Thank you, National Chief and Chair.

I've been at this for quite a while, as the national chief says, since 2006, and before that with Chiefs of Ontario on the Walkerton tragedy.

During my time at the AFN, we had the opportunity to meet with former minister Prentice, bless his soul, and when he was quizzed on what it would take to sort out this problem, he said, "It's a matter of money," and that's all it is. It's a matter of money and the will of the government to put their will and efforts into addressing what you just mentioned, Mr. Shields.

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

Next we will be going to Ms. Atwin for two and a half minutes.

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

I know we are very limited on time. There is so much that I could say, but I want to hear the voices of indigenous people. I want to hear the voices of our leadership who are here today. It's amazing to have your testimony.

Really quickly, I'll jump right in.

National Chief, you've been involved from the very beginning of this bill. How did the AFN approach developing and structuring that engagement process?

We've heard a lot about that consultation. Some are feeling left out. Can you speak about what that process looked like?

• (0925)

**National Chief Cindy Woodhouse Nepinak:** I can, absolutely. Thank you for that.

I know we had seen that there was a huge gap in this country, of course. I know that these discussions are always tough to have, but I have to say that I commend many of the technicians, the Assembly of First Nations staff and the chiefs for giving a mandate. Our chiefs come to our assemblies. They tell us what they wish. We're bringing that forward today in a good way. Certainly they have called on us for many years to try to fix and to repeal some of that, and to make sure that there is something protecting us.

As we see right now, there is so much dumping into waters. It's from everybody. Every industry is at fault. We're all at fault—each and every one of us.

We don't look at our carbon footprint half the time, myself included. I know that we have to do something.

I commend the bureaucrats and many of the people around this table who have committed to try to work through this. I ask you to really, seriously consider the amendments to this bill from the Assembly of First Nations. Let's move forward very quickly, so that we can get to royal assent.

I think we all know that there is always a ticking every day. Every day we have time to breathe and time to do this work while we're here. Let's make it better so that our children don't have to be sitting here talking about this same issue and so that we're protecting ourselves for the next generations to come.

The way it is right now, when you see gallons of raw sewage being dumped into rivers and chemicals being dumped into our rivers and lakes, what are we doing to ourselves? There is no planet B and there is no extra water somewhere. We have most of it here in our beautiful country. Let's work on it and keep it together.

I'll stop there. I don't know if my knowledge keeper wants to say anything else.

**Mr. Irving Leblanc:** Thank you, National Chief.

Chair, I'll just be very quick with more of a technical issue.

The actual process was that the AFN did cross-country engagements in every region. We met with first nations technicians and others. That resulted in documents distilling 26 conceptual points of what we heard across the country. Those were distilled into the six critical points that the national chief mentioned at the start, including liability, funding and source water protection.

That was the process. At the time, AFN did its due diligence and got the input from every region.

Again, that's through direction from a resolution from the chiefs and the assembly.

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

[Translation]

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

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

Grand Chief Woodhouse, do you support the ban on the construction of a nuclear waste dump near Deep River and Chalk River along the Kitchissippi River, or the Ottawa River?

It's obvious to first nations like the Anishinabe, as well as to us. I'm curious to hear your perspective.

[English]

**National Chief Cindy Woodhouse Nepinak:** Absolutely, I am. Why would you want to put nuclear waste by source water or by water that we're all going to have to drink and that our grandchildren are going to have to drink?

[Translation]

**Mr. Sébastien Lemire:** That's our challenge in the east, particularly in Quebec, just as oil development can be a challenge in the west.

You said that provincial governments should not negotiate in bad faith or shirk their responsibilities when negotiating agreements on protected areas. What means would allow first nations to assert themselves and protect the surface water that over four million people rely on, while respecting the territory's cultural practices?

Industries are often given a free pass, and there are no regulations preventing them from using this drinking water. In addition, there's no obligation regarding the quality of the water they discharge into nature. I agree with the chiefs of the Cold Lake First Nations and the Kehewin Cree Nation that there are elements missing from this bill regarding the social responsibility inherent in compliance with the Canadian Charter of Rights and Freedoms. These include the obligation of companies and the government to protect water and residents.

• (0930)

[English]

**Chief Kelsey Jacko:** Yes, it's very frustrating. I hear your... On liability and whatnot, the science is not absolute. Just on the study, you know, people still eat fish. Fish used to be the healthiest food around.

It's kind of hard, to tell you the truth, with French and whatnot in the earpiece.

How do you think about balance? Everybody thinks about economics, but the environment is suffering. Even the species at risk... It just seems like it's being ignored. It just seems like economics trump the environment, and we're really going down the road. It's hard, and we're frustrated. We don't even have a seat at the table when we talk about these talks.

When you talk about droughts, we're considered "others", and that's kind of disrespectful when we're the first peoples of these lands. We should be involved in the science. You know, you can get water from the air, but when you're going to be dumping tailings ponds into the rivers, we don't think that's safe. Where are we going to go in an environment catastrophe? The footprints are still getting larger, right?

**The Chair:** Chief, I'm very, very sorry. I am going to have to—

**Chief Kelsey Jacko:** Yes, I could go on here every day, all day long. You know, this is not enough time. There's room for amend-

ments. I gave my technical supports and everything, but we're here today in good faith. I'm being nice. I'm being kind, but thank you for your time. I hope we have more time in the future.

*Mahsi.*

**Mr. Sébastien Lemire:** *Meegwetch.*

[Translation]

**The Chair:** Thank you very much, Mr. Lemire.

[English]

Next we will go back to Ms. Idlout for just a minute and a half here.

**Ms. Lori Idlout:** Thank you.

I share your frustration with the lack of time being given to ask our witnesses questions. I wish we had a better process. I think that we can do a lot better as a committee.

My question will be for the legal counsel, Christopher Rapson.

Knowing that treaties are not being implemented to their fullest with first nations and knowing that Canada has ratified multiple international instruments related to the human right to water, can you share with us how this government...? How do you, as a lawyer, reconcile the statement of defence in the Shamattawa case?

I'll quote what they said in their statement of defence regarding the Shamattawa First Nation: "Canada does not owe any legal obligations or duties to operate and maintain the plaintiffs' water systems."

Can you respond to that, please?

**Mr. Christopher Rapson:** Yes, I can, absolutely.

Of course, the Assembly of First Nations would disagree with that legal position taken by Department of Justice lawyers in the Shamattawa case. We support Shamattawa in their class action, and of course we believe that Canada does have that legal obligation. We believe that it's rooted in the Constitution; it's rooted in treaty. Certainly Canada has adopted those instruments of international human rights.

The DOJ position stated in that case does not align with those laws, and this is all the more reason that we need this bill. We need this bill to make it clear, without "best efforts", because of course first nations cannot rely on the best efforts of federal governments. We need firm commitments to make it crystal clear to DOJ lawyers and to everyone else that Canada does bear that legal obligation.

That's how I would respond.

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

Next, for two and a half minutes, we'll be moving to Mr. Melillo.

**Mr. Eric Melillo:** Thank you, Mr. Chair. I did not know we had another round. I appreciate the opportunity to ask a couple more questions here. I'm just thinking of where I left off.

Speaking of the amendments being put forward, I appreciate everyone's having those discussions.

I'll go to Chief John and then Chief Jacko.

I'll ask you both to comment on the consultation process and how this has played out. We've heard, I think, some varying things, depending on who has been speaking. Obviously, there has been some involvement of first nations, but as the NDP member alluded to, the overall consultation has been with a very small number of first nations across the country. I'm wondering if you could speak to what input in the development process you really should have.

● (0935)

**Chief Kelsey Jacko:** It's very frustrating, because we've had zero input or consultation on the making of this bill. I share the sentiment of the chief of the Mikisew, who talks about water. Nobody talks about water except my nation. Water is the spirit of my life.

We have to deal with Alberta. We need a seat at the table. Our words are being unheard. How do we deal with the Alberta government when all of our lakes are poisonous? When I was young, I could drink water from everywhere. Cold Lake is the only two-sourced water left in Alberta. It's a very pristine lake, and I hope we can keep it that way.

We need input on this. We need a seat at the table when they're talking about treaty rights being impacted, because everything comes from source water. What are the animals going to eat? Biodiversity is changing. It's just frustrating.

You talk about consultation; we had zero input in the making of this bill, and that should change. We're here today talking about amendments. My technician has already given input. We need a seat at the table. We're already in court. Why can't we solve these issues? We should be at the table right from the start when you're talking about water. When we're born, we all come from water. Water is life. Things have to change.

I'll leave it at that before you cut me off.

*Mahsi.*

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

For our final questioner here, I'll turn the floor over to Mr. Battiste for two and a half minutes or less.

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

Thank you for the testimony, chiefs.

National Chief, it's very good to see you and hear from you today.

We've seen, throughout the history of Canada, a lot of environmental racism in terms of first nations communities being impacted by corporations, provincial orders and a lot of different things. I know some of the communities impacted by this.

I'm wondering if you could speak a little about how not only this legislation but also the environmental racism legislation we put forth can help address some of the problems that are outstanding.

**National Chief Cindy Woodhouse Nepinak:** Thank you for that question.

Regarding Bill C-61, there are many areas the AFN and first nations across Canada have consistently advocated for: the recognition of our inherent right over source water—I think we have to work towards that; the minimum binational standards, of course; commitment to a funding framework; and liability protection for water service employees of first nations governments. We have a lot of issues we need to work through.

You're absolutely right. As Chief Jacko said, there's too much industry. What trumps that? Is it the environment or industry? We're not in balance, my friends. We know that. As we're working through this very important moment in the history of our people, we need to work together and get this right.

You've heard from many of us today. You've heard from our experts. We've submitted our written submission already, I'm sure. We urge all of you to read through that and take into strong consideration AFN's position, and our amendments. Let's make this right and get this right, once and for all. Let's move this very quickly. We don't have time to wait. The planet is waiting for us. First nations are waiting for clean drinking water every single day. That's unacceptable. I urge you all to get down to business.

I'm looking at the staff in the back. Thank you for your commitment as well.

Let's get this right and let's get this to royal assent with the amendments.

Thank you.

● (0940)

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

That will conclude our first panel.

**Mr. Irving Leblanc:** There's one last comment, then. It [*Technical difficulty—Editor*].

There's a parallel process going on in the environment committee, and that's with the Canada water agency and the modernization of the Canada Water Act. Those go hand in hand with the development of this water legislation. It has a direct impact on what comes out of those. The health of fresh water is going to be addressed in the protection zone issue. Those really go hand in hand with each other.

**The Chair:** Thank you very much for that clarification.

**Chief Betsy Kennedy:** I just want to add something.

Thank you all for acknowledging our loss in Manitoba with the passing our late Grand Chief Cathy Merrick. She had been very supportive of what we are doing in the way of protecting our waters.

I just want to add also that in 2008, AMC had brought a resolution in Canada's proposed drinking water legislation. I want to be able to send that to the committee so you can take a look at it, because this has been a concern for quite some time. I've been chief since 2006, and the water situation has been the same. It has not changed at all, which is the reason we are here trying to protect our first nations.

Thank you for listening.

**The Chair:** Thank you very much, Chief Kennedy.

I want to thank all of our witnesses. Of course, we could certainly spend another few hours here, and I really appreciate your time and your input. The briefs you've submitted in advance are certainly going to enrich the study of this legislation, as well as the amendments that I'm sure will be coming down the road. I just want to thank you again.

We're going to briefly suspend before we move to our next panel.

• (0940) \_\_\_\_\_ (Pause) \_\_\_\_\_

• (0945)

**The Chair:** I call this meeting back to order.

I am very grateful for our second panel and our great witnesses we'll have here today, including the Honourable Patty Hajdu, Canada's Minister of Indigenous Services. She's flanked by department officials, including Gina Wilson, Paula Hadden-Jokiel, Nelson Barbosa and Douglas Fairbairn.

With that, we're going to jump right into it here.

Minister, I'll hand the floor over to you to deliver opening remarks of five minutes or less.

**Hon. Patty Hajdu (Minister of Indigenous Services):** Thank you very much, Mr. Chair. I will be able to stay slightly longer than originally scheduled because of the delay in the start time, but I think we have a hard stop at a quarter to the hour. I really do want to have a full conversation here.

I'm really glad that the committee has listened to so many witnesses over the study of this legislation. It's so important that we respect the voices of first nations, and the diversity of those expressions and perspectives is what makes us such a fantastic country.

I'm very happy to join you today on the traditional, unceded territory of the Algonquin and Anishinabe people to discuss Bill C-61, which, as you know, is called the First Nations Clean Water Act. This bill, as you've heard through witnesses, reflects an immense amount of work, of collaboration, knowledge sharing, and real heart from first nations partners. It really is their work, their contributions and their leadership that have brought us to this point today.

The day Bill C-61 was introduced, Chief Erica Beaudin of Cowessess First Nation said, "I believe that today is historic; not only because the bill has been introduced, but because it is the start of that day where our children will be born with the regulations that are needed."

As the bill moves through the parliamentary process, it's now our responsibility as parliamentarians to treat this bill with the respect

and the urgency that it deserves. I agree with everyone that it is unacceptable that there are first nations communities that do not have safe and clean drinking water, and that's what led to the promise to end long-term drinking water advisories that was made in 2015, and we have made significant progress. In fact, I'm pleased to share that just yesterday, Fort Severn First Nation lifted their long-term drinking water advisory. That one had been in place since December 2022.

However, we will never be out of this cycle of long-term boil water advisories and short-term boil water advisories if we don't fix the system that allowed for this process to happen in the first place. That's what the underlying intent behind Bill C-61 is. It's to change the way we do things in this country so that we're not ever again in the position that we were in 2015.

Bill C-61 would establish minimum standards for water services on first nations lands based on first nation choice. It would affirm the inherent right of first nations to self-government with respect to water, supporting first nations' authority, management, maintenance and protection of their water in, on and under their lands.

It also reinforces the essential role that provinces and territories play. You've heard many stories through this study of provincial governments, including while I was here listening to other witnesses—provincial governments that have ignored and excluded first nations when it comes to water rights and resource management. As a federal government, we do have the responsibility to make sure that first nations have the tools they need to ensure that their inherent rights are affirmed and that their jurisdiction is respected.

In fact, Chief Knowlton said, "You ought to be behind us or in front of us or beside us in any battles that we're going to have with Alberta. That's federal jurisdiction. Your obligation, the fiduciary responsibility of Canada, is to protect the first nations you signed treaty with."

I know that no provincial or territorial governments chose to appear as part of this study, and it's disappointing, because it's actually an opportunity for provinces and territories to work more closely with first nations partners, but this legislation does provide tools to encourage and support those relationships, and it's a signal of the critical need for this legislation.

Bill C-61 requires the Government of Canada to make best efforts in providing adequate and sustainable funding for water services on first nations lands, and that the services be comparable to those in non-indigenous communities. The term "best efforts" sets a high standard through which the Government of Canada is legally accountable to first nations. Furthermore, the flexibility in the bill also ensures first nations will determine exactly what resources they need to properly fund and maintain their water systems.



The Atlantic First Nations Water Authority said it well:

One has to come before the other. We don't know how much money we need until we develop our regulations. With those regulations, we can then set forward how much money we need and what our long-term strategic vision for that infrastructure would be.

Bill C-61 is a reflection of the direct engagement, extensive collaboration and knowledge sharing with first nations partners, and you've heard many witnesses talk about how they've contributed to the bill and what they've advocated for inclusion.

First nations partners closely collaborated on this bill, and we've been working with first nations partners and keeping them up to date. I hope that this sets a path for the kind of co-development this country could use for many different kinds of legislation.

The engagement process didn't end at introduction. We've continued through the work that you're doing in this study, and as I've said from the beginning, we're open to ways that we can make this bill even stronger, guided by first nations voices.

● (0950)

Chief Emerita Emily Whetung-MacInnes asked us:

Please do not politicize [our] first nations' access to one of the basic necessities of life. This is a matter that is too important to get caught up in party politics. The legislation that you're considering relates to a subsection of Canadians whose human rights have been ignored for too long.

Bill C-61 is a critical step toward making sure future generations in communities like Neskantaga, Tataskweyak and Curve Lake will never know what it's like to live without reliable and safe drinking water. By working together, we have an opportunity to make this a reality for thousands of people.

Mr. Chair, I'm happy to answer any questions or share more information with the committee about how important this bill is.

*Meegwetch. Qujannamiik.Marsi.* Thank you.

● (0955)

**The Chair:** Thank you very much, Minister.

With that, we will go right into our first round of questioning.

From the Conservative Party, it's Mr. Melillo. You have six minutes.

I just want to mention one thing before we start. There have been some issues with the sound. Make sure that when you're speaking, it goes into the microphone. As we know, some members of the committee and some witnesses have had trouble hearing the questions.

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

Thank you, Minister, for being here. I appreciate your patience with us, as we ran over time in the previous panel.

I also appreciate you acknowledging the work of the committee here in listening to first nation voices. I think it's been very important. Frankly, I do think that we've all been working in pretty good faith to improve this legislation.

It does feel like we are doing some of the consultation that could have been done prior to the development of this legislation. Minister, you've claimed this bill has been co-developed, I believe, or

close to being co-developed. That was a term that you used, but we have heard from many first nations that do not feel that their voices have been heard on this.

Chief Sheldon Sunshine told the committee that "Bill C-61 garnered the support of only 100 out of 600-plus first nations". The context of that was a discussion around the Assembly of First Nations.

We've heard some amendments that were brought forward. We've also heard from some chiefs and community leaders who want to scrap the bill altogether. On such an important topic, I think that is a shock to many. It is the reality of the situation that we are in because of such a lack of consultation.

Can you explain, Minister, how that consultation process went and why so many voices have been left out of it?

**Hon. Patty Hajdu:** Thank you very much for the question.

I would say that extensive consultation has been ongoing. In fact, we've had a concerted and direct outreach with Treaty 6, Treaty 7 and Treaty 8 nations, which do not feel that AFN represents their voices. We have worked with them both at the political level—myself, with direct consultations with those chiefs—and with the department. We have had numerous meetings and consultations, listening to ideas from that region to make sure that their thoughts and perspectives were included.

We've historically published online a draft of the legislation and the approach to the legislation so that people could have access all across the country. We've held hundreds of consultations. We've held coast-to-coast tours. The AFN has held coast-to-coast tours, as well as Canada.

I would say that we are continuing to listen, just as you are. We have heard some very strong ideas about how to improve the bill. Those are important. As I've said publicly in the House and elsewhere, we are very open to amendments that strengthen the legislation. We'll continue to listen to partners—

**Mr. Eric Melillo:** Thank you—

**Hon. Patty Hajdu:** What I'll also say, if I could finish my thought, Mr. Chair—

**Mr. Eric Melillo:** Thank you, Minister; I appreciate that. I do have limited time—

**Hon. Patty Hajdu:** What I'll also say is that most chiefs say there is a gap now—

**Mr. Eric Melillo:** Mr. Chair, with respect, I would like to take back my time—

**Hon. Patty Hajdu:** There is no regulation or protection and we must put forward our legislation.

**Mr. Eric Melillo:** Thank you.

**The Chair:** Minister and members, I'm going to pause for a second here.

When there's crosstalk, it makes it very difficult for the interpreters to do their work. Only one person should be speaking at a time.

Mr. Melillo, the floor is yours.

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

Minister, I do appreciate the answer, but I'm sure you can also appreciate the limited time we have here in committee.

I want to speak about the number of long-term drinking water advisories.

Earlier this year in the House, when I rose to speak about this issue, there were 28 long-term advisories in place at that time. As of the publicly available data on September 28, there were 33. That's obviously an increase.

Minister, do you have the number of how many long-term drinking water advisories are in place today?

**Hon. Patty Hajdu:** There are 32.

**Mr. Eric Melillo:** There are 32, so yes, as I mentioned, that number has increased over the course of this year. Unfortunately, from an overall perspective, we have added more drinking water advisories. Can you describe what breakdown has allowed that to happen to the point that advisories are now actually being added?

• (1000)

**Hon. Patty Hajdu:** Well, first of all, I'd like to point out that since 2015 we've lifted 144 long-term boil water advisories. With all respect to the member, I find it a little ironic that under the previous Conservative government, in fact, complete neglect led to 144 boil water advisories, but I will say—

**Mr. Eric Melillo:** Minister, we can talk about previous governments forever. You've had nine years.

**Hon. Patty Hajdu:** I will say that all of the information about where each boil water advisory is at is publicly available as part of the commitment to transparency on this issue with Canadians.

As you know in hearing from chiefs and councils, there are a variety of reasons why a short-term boil water advisory may become a long-term one. We work with each community to make sure we have the appropriate solutions presented and in place for communities to eventually get to those being lifted.

**Mr. Eric Melillo:** Thank you, Minister.

I'd like to ask about a local example from my district community, Mishkeegogamang First Nation, which you know well.

On January 19, 2024, they had their long-term drinking water advisory lifted, but in May 8 of that year the community was back under a drinking water advisory. Again, this was a complete failure on the part of Indigenous Services Canada to ensure that this nation was able to maintain their clean drinking water. What happened in that scenario of Mishkeegogamang to allow that to happen?

**The Chair:** Minister, we'll have a brief answer, if that's possible.

**Hon. Patty Hajdu:** Absolutely.

Well, first of all, there's a premise problem in the way the question is posed. In fact, it's the chief and council that determine when a lift is appropriate. I think we need to remember that chiefs and councils have the self-determination to make those decisions for their communities.

However, I will say that Mishkeegogamang has a new plant. We are working with the community now on the solutions that are creating challenges with the water that the new plant is delivering.

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

Next we will move over to Mr. Hanley for six minutes, please.

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

Thank you very much for appearing, Minister, and thanks to all the officials for being here today. It's a very important day today. We heard from the grand chief as part of this meeting.

On the subject of getting to those more perhaps intransigent drinking water advisories, as you say, 144 have been lifted since 2015. That's fantastic work. We've come a long way. Progress has slowed and I think because we are getting into the ones that are more complex, has become more nuanced and perhaps more technically difficult.

How do you see that this bill and its implementation will help get through those last ones and also will be enduring to prevent—which is really our aim—those boil water advisories in the first place?

**Hon. Patty Hajdu:** Thank you for the question.

I think I'll answer it in reverse, because I do think that this bill... You and I both have a background in public health, so prevention is our first love.

This bill actually does set the table so that we never go back to a place where communities don't have the appropriate financial resources, the technical support or the inherent rights to regulate water, which has led to so many of these intractable situations.

The government has spent in the billions of dollars to lift boil water advisories, which was an amount that built up over years of neglect and years of inequitable funding for first nations infrastructure, including water infrastructure.

One important piece of this bill is the co-development of funding models. As you know, and as parliamentarians know, the process for which first nations receive allotments for water provision, water operation, has always been decided by Ottawa, by the Finance Minister, by the Prime Minister, and although we've seen tremendous increases in appropriate operating expenses provided to first nations communities under the Liberal government, you could easily see it slipping back under another government. This bill says that this can no longer be an arbitrary decision by Canada, but rather it has to be co-developed with first nations so that they can set the appropriate regulations and then can have comfort that they will have long-term, sustained funding that will allow for the development of expertise in their communities, that will allow for a certainty for operator salaries and that will allow for the capacity of the community to grow in its own ability to monitor and, in some cases, to design their water operating systems.

The number of stories I've heard about communities that have received contractors that build these plants that then don't resolve the water safety issue is appalling. What we're trying to do through this legislation, at least in part, is to restore the self-determination to communities to be able to develop their own expertise and, in some cases, to build on the existing expertise so that we never return to those situations again.

• (1005)

**Mr. Brendan Hanley:** Thank you.

You did bring up the question of funding, and we have heard some uncertainty about maybe, as some have expressed, a lack of definition about funding. You talked about, in your opening remarks, how this will be set up through the regulations. You have to have the steps in place.

On the other hand, I've heard, even today, one of the witnesses say that the government needs to get real and address issues in good faith. To me, the legislation is part of that getting there.

How would you ensure that the funding for first nation water services is going to be sustainable, stable and needs-based, and that it will be addressed through the regulations and through what comes afterward?

**Hon. Patty Hajdu:** I think that is one key element of this legislation that, quite frankly, reflects the engagement process and the collaboration of developing this bill, because that issue came up time and time again in the initial consultations: "How can we trust Canada?" Essentially, if you boil it down, that's what first nations are asking. How can we trust Canada? Canada has not been a good partner to us as first nations for a very long time—some would argue ever.

This legislation attempts to get at that question of trust by creating a mechanism that compels the Government of Canada to work on funding models with first nations so that we move ourselves away from a colonial approach, a top-down approach, from Ottawa, often made by decision-makers who, in some cases, have never set foot in the community where this will deeply impact their members. This actually changes it. It changes the model of decision-making around funding allocations to include first nations voices at the table.

You've heard, I'm sure, so many times, first nations witnesses at this table say—in fact, I heard it from one first nations chief as I was waiting—that we cannot have decisions made behind our backs, whether it's by provinces or territories or by the federal government. They need to be in the conversations. Therefore, the co-development legislation—

**Mr. Brendan Hanley:** I want to squeeze one more question in, briefly.

It's really completely about co-development. What have you learned about co-development that could be applied to other legislation that we contemplate?

**The Chair:** Give just a very brief answer, please.

**Hon. Patty Hajdu:** I'd love to talk about that at length.

I would say that at the beginning of this, we had a very different definition by members who were helping us draft this legislation and think through this legislation of what co-development was. By the end of it, I think we've learned that co-development starts a lot earlier than you would imagine.

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

[*Translation*]

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

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

If I may, I'll be sharing my time with my colleague from the Green Party, Mike Morrice. Since he wants to take part in the demonstration to support the supply management bill, I will give him the opportunity to go as soon as possible.

• (1010)

[*English*]

**Mr. Mike Morrice (Kitchener Centre, GP):** *Merci*, Monsieur Lemire.

Minister, I want to start by quoting what we heard from Chief Hill earlier this week. Her words were, "Then we have Bill C-61, which introduces non-binding legislation that promises 'best efforts'. This is a slap in the face. No wonder first nations often turn to the courts to pursue federal accountability for their issues."

Her community is one where 70% of households are without reliable piped drinking water. We also learned from her that while we've been told that consultations began in 2018, no one from Six Nations was consulted until they had their first opportunity to present to this committee just a few days ago.

If you're telling us that first nations have co-developed the bill, why are we hearing such a gap between communities affected like Six Nations, Chief Hill's community, and what we're hearing from you?

**Hon. Patty Hajdu:** First of all, thank you for coming, and I know this would be very interesting to the party you represent, and I'm glad you're here to talk about clean water.

I first want to talk about your question about best efforts. In fact, in 1994, in a decision of the Supreme Court of British Columbia, Justice Dorgan determined that “best efforts” imposed a higher obligation than “a reasonable effort”: “Best efforts’ means taking, in good faith, all reasonable steps to achieve the objective, carrying the process to its logical conclusion and leaving no stone unturned.”

In fact, many of the participants in developing this legislation acknowledge that “best efforts” is quite a significant bar for Canada to reach and that it holds Canada to a high degree of accountability for the sufficiency in funding, which is what “best efforts” largely refers to in the legislation.

In terms of the consultation—and I won't repeat everything I said to MP Melillo—we have had extensive consultations, and there have been many opportunities, including direct outreach to every first nation implicated and including opportunities to submit online and opportunities to participate in consultations.

I can't speak to Chief Hill's particular experience, but I can tell you that we're still open to speaking to chiefs.

As you know, we are working through a process of considering amendments as they might arise from this committee, and we will continue to be there to meet with any chief or council who wishes to speak with us.

[Translation]

**Mr. Sébastien Lemire:** Thank you, Madam Minister.

In that regard, there's an elephant in the room: Why isn't the Minister of Crown-Indigenous Relations co-defending this bill with you? He can certainly delegate responsibilities, but when it comes to the human rights of first nations people, it is inappropriate for him not to be there. We talk about rights, respect for agreements and treaties, but it is absent.

This is what first nations have told us repeatedly over the past several meetings of the committee. It sends a message that the government sees water management for first nations as purely administrative. However, it's an essential element, which is at the heart of first nations development. Why is that?

[English]

**Hon. Patty Hajdu:** First of all, I'll just say that no bill is able to be presented in the House of Commons unless it's supported by cabinet. As you know, Minister Anandasangaree and I work very closely together, and I have the full support of cabinet in working on this legislation; otherwise, I obviously wouldn't be here today.

What I will say is that Indigenous Services Canada works extensively with first nations communities on water and water development. While Minister Anandasangaree is responsible for working with communities on things like treaties, he and all of our colleagues are responsible for ensuring that the work of first nations gets done appropriately and in a timely way.

That responsibility in terms of services does fall under my portfolio. I have a department full of officials, engineers, technicians and legal experts in this area, while his department might not, so we have worked very closely with Minister Anandasangaree. We have

worked very closely with other related ministers, such as the Minister of Environment, to make sure that we are aligned in the work we're doing to protect water in this country.

[Translation]

**Mr. Sébastien Lemire:** However, it would have been nice if he had been here to address those concerns.

Also, what is preventing the government from investing massively now to reduce the infrastructure gaps in a number of the communities that testified today? What is stopping you from supporting a land guardians program and recognizing indigenous knowledge? Why does it absolutely take a bill, which is controversial for the first nations themselves, to move forward?

[English]

**Hon. Patty Hajdu:** This may seem controversial to you, but it's not controversial to the hundreds of people from first nations who have worked on it. I would say that what this bill does is actually provide the certainty for the kind of work that you're referencing.

Listen, right now, Canada can arbitrarily decide how much it wants to fund a particular water system. Canada can arbitrarily decide that it's going to cut the funding for water operators across this country. Canada can arbitrarily decide what regulations might be in place.

What first nations are saying through this legislation is, first of all, to respect their self-determination and, second of all, to be a true partner, and that's what this legislation actually achieves.

Of course, there are opportunities for amendments to make it stronger. You will deliberate on those amendments. I will look forward to your feedback. As I've said publicly, we are open to amendments that strengthen the aim of this bill, but this bill has, really, two goals. One is to ensure that first nations are never, ever, in the position that they were in before 2015, when they were at the whim of a federal government that did not prioritize their rights to clean drinking water. The second is to set a framework whereby first nations have the tools they need for full self-determination over protecting their water sources and their water systems. I can't imagine a way forward that doesn't include those two elements.

• (1015)

[Translation]

**The Chair:** Thank you very much, Mr. Lemire.

[English]

Next we will go to Ms. Idlout for six minutes.

**Ms. Lori Idlout:** *Qujannamiik, Iksivautaq.*

I must start by shaming you, Minister Hajdu, for your pride in this work. I must shame you for being proud of the investments that you say have improved so much for first nations, especially knowing how many gaps there are in ensuring that first nations are achieving equal health and equal opportunities for economic development. First nations will continue to have to negotiate their jurisdiction over water. I'm quite disappointed that the work that is supposed to help first nations take ownership over water still limits them. It is supposed to respect first nations' right to water, jurisdiction and human rights. You introduced a bill that is below the minimum standard set by the United Nations Declaration on the Rights of Indigenous Peoples.

I feel quite strongly that if the federal government were challenged on this bill not meeting the duty to consult standard, the court would find that you failed, especially having learned that only about 31% of first nations were consulted.

On June 12, I questioned federal bureaucrats at the indigenous and northern affairs committee regarding how many people had been engaged. They were very reluctant to respond to my question regarding numbers. I had to pressure bureaucrats Nelson Barbosa and Joanne Wilkinson to finally answer me. They said that out of the 634 first nations that would be impacted by this legislation, only about 181 were engaged.

There are huge concerns. We heard from Neskantaga. We heard from the Mikisew first nation. We heard from the national council. We heard from Trevor John in today's sitting, as well as from Cold Lake First Nations' Chief Kelsey Jacko and so many more who had not been consulted.

I'm quite fascinated by your statement this morning about "moving...away from a colonial approach" and how you see this bill doing that. We currently have the Shamattawa case in the Federal Court. It had its three-day hearing, where Scott Farlinger, the federal lawyer said, "some maturity and without unnecessary adjectives" regarding Shamattawa First Nation, and also said, "The claimant under Section 7 may have an extreme need, but Canada doesn't deprive you of your interests [or] stop you from helping yourself." That, to me, is very much in opposition to your political posturing when you say that this bill will move away from a colonial approach.

Meanwhile, because of the way you introduced this bill, first nations will be required to consult and negotiate with municipalities, provinces and territories regarding source water protection and protection zones.

I wonder if you could answer, for us, how you reconcile that difference. If you respect first nations' right to self-determination so much, why did you introduce legislation that requires us to have vague notions about what self-determination looks like for them?

• (1020)

**Hon. Patty Hajdu:** Thank you for sharing your perspective, MP Idlout.

With regard to your comment around shame, it will be all of our shame if we don't transform how we do things in this country. That's what this bill is attempting to do: to transform how we create legislation that deeply affects first nations people and to transform

how we have relationships that are open, inclusive and evolving to include first nations voices.

That is work that I am proud to do, actually. I am proud to do this work. It's difficult work, especially when you represent a system of colonialism that has oppressed indigenous voices for so long, yet it's such important work.

I thank all colleagues for having these important conversations with first nations partners, because you are hearing the reflection of that difficult relationship in the ways that people are expressing themselves to this committee.

With regard to engagement, a number of people have said that in fact they felt fully engaged, that the engagement was more than the kinds of engagement they've ever had in the past. This includes, for example, Chief Crowfoot from Siksika, who said, "For the first time ever, we had opportunities to review and comment on draft legislation." He said also, "Although we had to fight hard, Canada responded with critically important changes to the bill."

Don't forget that the bill you're studying is dramatically different—

**The Chair:** Minister, I'm afraid I'm going to have to ask you to wrap it up.

**Hon. Patty Hajdu:** —from the first draft.

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

With that, we're going to move into the second round of questioning.

For five minutes, I will turn the floor over to Mr. Schmale.

**Mr. Jamie Schmale (Haliburton—Kawartha Lakes—Brock, CPC):** Thank you very much, Mr. Chair.

Thank you, Minister, for being here.

Minister, according to your website, the primary reasons drinking water advisories were issued in first nations communities are disinfection at 32%, equipment at 30%, microbiological quality at 18% and source water quality at 6%.

Given the fact that around 80% of the advisories have something to do with equipment and with ability to access parts for repairs or training in community, how come this legislation leaves out the part about having a rapid response team? Similar to a health emergency team, they can fly into a community, can be there with a part and can repair—with the assistance of those on the ground—the malfunctioning equipment. This legislation completely leaves out the majority of the reasons that drinking water advisories are in place.

**Hon. Patty Hajdu:** In fact, this legislation will create a framework for exactly that kind of work.

I do want to speak to what already happens in some of those scenarios, so I'll turn to Nelson Barbosa.

**Mr. Nelson Barbosa (Director General, Community Infrastructure, Department of Indigenous Services):** If we go back to Bill C-61, I would point to some of the language around “substantive equality” and “comparable services” with regard to the question around the availability of parts. In some cases, it's not just removing one small artifact or one small piece of equipment; it's about large-scale replacement or expansions of systems.

When we're talking about critical failures of important pieces of work, it's not so much about getting a team of engineers in there as about providing long-term solutions to long-term problems. That's what this legislation proposes to—

**Mr. Jamie Schmale:** I appreciate that, but we have municipalities across the country that are able to quickly deal with this.

You mentioned that this is a framework to develop this process, but the information is here telling anyone who reads it exactly what the issue is. Again, if we know what the problem is, we can address it more quickly by maybe putting this action in place, instead of a framework, to deal with this issue. Wouldn't that be a quicker way of addressing the problem, rather than this long process dealing with all of this other important stuff? Let's get this fixed now, rather than potentially spending more in court.

• (1025)

**Hon. Patty Hajdu:** I would agree with you that urgency is paramount. That's why every community does have a plan. You can track online what each community's challenges are and where they're at.

Some of the communities are in a place where the chief and council are working to have confidence in the lifting of the advisory. Some of the communities are in a place of fixing deficiencies. I would also point out that in many cases—and this is a big difference between the majority of municipalities and first nations—communities are extremely removed from the ability to, for example, transport people and equipment very quickly. Those challenges get in the way of the work.

I would just say that—

**Mr. Jamie Schmale:** I don't disagree with those challenges—

**Hon. Patty Hajdu:** —this is the work we must continue, but this bill prevents the—

**Mr. Jamie Schmale:** There are options, though. It's kind of like health. When there's a health emergency, there's an ability to get someone out quickly.

**Hon. Patty Hajdu:** That's why the Atlantic First Nations Water Authority model is fantastic. That's why we work closely with partners like OCWA in Ontario—the Ontario Clean Water Agency—to provide relief and training for operators.

There are communities that have, for example, no trained operator. I've spoken to some of those communities. It's not just a matter of offering training dollars, which the government of Canada has; there has to be someone in the community who wants to be a water operator.

I'm sure you can appreciate that it isn't something you can force on someone. Being a water operator, I will say, having spoken to hundreds of operators across the country, is a high-stress position.

Oftentimes, you're working alone. You are responsible for the clean water for your entire community. Many times operators are exhausted, so we also have supports for communities that are operating with maybe only one trained operator to provide relief for those communities.

**Mr. Jamie Schmale:** We spoke earlier, and best practices were also mentioned. I appreciate why it's in the legislation. Given that we are talking about health care, I also note that when we're talking about Jordan's principle, the ability for an answer to be given by your department continues to decrease. We're down 19% since the year before to meet that 12-hour deadline.

Given the fact that your department isn't meeting its stated goals and that we're again developing more frameworks and that type of thing, should people have confidence that best practices are strong enough?

**The Chair:** Please give a very brief answer.

**Hon. Patty Hajdu:** It's not best practices. It's best efforts.

**Mr. Jamie Schmale:** It's best efforts—sorry.

**Hon. Patty Hajdu:** It's in relationship to money and funding, so it's actually completely different. It's not the Government of Canada providing services or administrating Jordan's principle; it's about the commitment of the federal government to ensure that adequacy of funding is there so that communities can actually have what they need to implement their own regulations.

**The Chair:** Thank you very much, Mr. Schmale.

Next we will move over to Mrs. Atwin for five minutes.

**Mrs. Jenica Atwin:** Thank you very much, Mr. Chair, and thank you so much, Minister and officials, for being with us again today.

I just want to start with again reminding Canadians and our committee of how we got here, which is chronic underfunding, discrimination, oppression in our system, a bill that was previously inadequate and didn't respond to the needs of indigenous communities across the country, and currently having no enforceable standards right now for clean drinking water and wastewater protections for communities.

I think it's disrespectful to the work of indigenous peoples and voices across this country not to acknowledge the progress we've made. Of course there are still gaps. Of course it's still inadequate. We have to keep working and fighting. However, I think if we don't acknowledge how far we've come, it puts that better future in jeopardy. I just wanted to preface my comments this morning with that.

Minister, really, we've heard from incredible voices. The testimony at this committee is just such an honour to be a part of. We've heard concerns. We have heard amendments that have been brought forward. We've heard perhaps also misunderstandings with how the bill will work in application for communities as they move forward.

I'd like to go through some of those concerns quickly. A big one we're hearing is the idea that Bill C-61 removes any responsibility from the federal government for ensuring this water protection moving forward. Can you speak to that?

**Hon. Patty Hajdu:** Again, I just want to acknowledge that deep distrust of the federal government by first nations is not unexpected. In fact, we should all understand that it's a by-product of colonialism.

What this bill is trying to do is change the way we create legislation and the way we decide, for example, on funding models to be inclusive of first nations voices. This could be a path for the country. I hope it is a path for the country in bringing first nations voices into all of the legislation we debate in this House, because in fact they are an important partner in the work of building this country and protecting our beautiful natural resources.

Thank you for the question. I would just say that what this bill does is remove an arbitrariness of funding from the federal government. Now, that's a strange thing to say as a minister of the Crown. I'm sitting here as a minister of the Crown, representing the federal government, yet I'm advocating a framework that says that Canada can no longer arbitrarily decide, in a silo, alone—regardless of need, regardless of actual facts, regardless of science and figures—what first nations should receive to operate their systems fairly.

Rather, the federal government must work with first nations to co-develop funding models that will help them achieve their own regulations that must meet—or beat, by the way—provincial standards. First nations will have standards of water quality like everyone else in this country and the fiscal firepower to be able to achieve that.

This is revolutionary. We've not done this in this country. To be here saying to you that the Government of Canada commits to do so through this legislation should give you pride as members of Parliament, because it is the first time the Government of Canada has ever proposed something like this.

• (1030)

**Mrs. Jenica Atwin:** Another piece we heard is the idea that you, as the minister, would have this veto power or extraordinary opportunity in the end, once this bill potentially is passed, to make decisions without consulting indigenous communities. Can you speak to that concern?

**Hon. Patty Hajdu:** Nowhere in the bill does that power exist. In fact, it distributes power fairly and equitably among first nations partners, the federal government, and provinces and territories, which will be asked to come to the table with first nations and the federal government to do a better job in protecting water for all their citizens. There's an opportunity in this for all of the provinces and territories.

I'm sure you heard—in fact, one of the witnesses who was on just before me talked about it—how, if we don't protect our water, we will not have life. That sounds so dramatic, and yet the more I worked on this bill and listened to elders and first nations, the more I realized that it is fundamentally true. This legislation actually empowers all of us to do a better job in taking care of the most essential, precious resource of life.

**The Chair:** Thank you very much, Ms. Atwin.

[*Translation*]

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

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

Madam Minister, nothing prevents you from establishing regulations to regulate the nuclear industry's obligations regarding the use of water and how it releases it into waterways. There are some for mining companies, in particular.

What specific role does Environment and Climate Change Canada, Health Canada, Transport Canada and Natural Resources Canada play in a bill like this?

**Hon. Patty Hajdu:** Thank you for the question.

This is very important to me, because there are first nations that suffer the effects of pollution produced by oil companies or from other substances, among other things. I'm thinking of the Mikisew Cree, for example.

[*English*]

They are facing a devastating situation right now.

[*Translation*]

Their water and land are contaminated, and these people eat meat from the animals that live on their land.

[*English*]

It's very important, and the work I'm doing right now is in sync with the work that Environment Canada is doing on, for example, the first update of the Canada Water Act and the water commission. We have to work better to protect people from the effects of contaminants.

In southern Ontario, Minister Guilbeault, as you know, used his orders as the Minister of Environment to pause the production of pollutants from the petrochemical industry in Sarnia that were polluting the air with an invisible, scentless chemical that nonetheless is a carcinogen. He worked very closely with the first nation. The company, as you may have read, was not too thrilled about having to shut down business while they put on better filters and scrubs.

The chief from that community told me that they live in chemical valley. He said that we know this industry is important to the economy and that many of our members work in this industry, but it still doesn't mean that we're okay living with practices that are poisoning our members.

• (1035)

[*Translation*]

**Mr. Sébastien Lemire:** As a follow-up question, because it's directly related to your answer, would you support a ban on building a nuclear waste dump along the Kitchissippi River, or the Ottawa River, in Deep River?

It's a no-brainer for first nations, particularly for the Anishinabe who came here, for Grand Chief Woodhouse and for us.

**Hon. Patty Hajdu:** I can't give you an answer right now, because I'm not a scientist and I don't have the necessary data. That's too broad a question for me to be able to give you a yes or no answer.

**The Chair:** Thank you very much, Mr. Lemire.

[*English*]

With that, we go to our final questioner for the panel and of the meeting today.

Ms. Idlout, you have the floor for two and a half minutes.

**Ms. Lori Idlout:** *Qujannamiik, Iksivautaq.*

Thank you, Mr. Chair.

I just wanted to remind the committee, based on the minister's responses regarding removing the arbitrariness of what the federal government can do, that this kind of statement ignores the legal obligations that the federal government has towards first nations and important constitutional principles like the honour of the Crown and the fiduciary duty that the federal government has to act in good faith.

I also remind the committee that there is a Supreme Court decision, a judgment regarding the Haida Nation, that says, "In all its dealings with Aboriginal peoples, from the assertion of sovereignty to the resolution of claims and the implementation of treaties, the Crown must act honourably."

This does not prevent the federal government from funding or from introducing laws that respect their relationship with first nations. To posture to us that this would eliminate that arbitrariness I think disregards that important relationship with first nations. It disregards the importance of reconciliation that this government must exercise with first nations, rather than refusing to act towards reconciliation.

We need to make sure as a committee that we've heard from those who have been ignored. Only 31%, we were told by bureaucrats, were engaged in this so-called "co-developed legislation". I take this opportunity to make sure that we understand, based on what we've heard, that there.... I do recall, as well, that there have been numerous submissions from first nations.

The indigenous and northern affairs committee received notice of my motion on October 4. I would like to submit my motion:

That the committee direct the analysts to prepare a summary document of correspondence and briefs submitted, including recommended amendments and a summary of issues, related to Bill C-61, First Nations Clean Water Act.

We were told this morning by the Assembly of First Nations that they had submitted their brief, but I've looked through my inbox, and I haven't seen any of that correspondence or their submissions.

*Qujannamiik, Iksivautaq.*

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

It's my understanding that you had already submitted and circulated this motion, I believe, last week. Just so I understand things correctly, are you moving the motion at this moment?

**Ms. Lori Idlout:** Yes, I am.

**The Chair:** Okay. With that, we can move to debate on this motion, if there is any debate. I can't imagine that. It doesn't seem like there is. In the absence of that, will this motion carry?

(Motion agreed to)

**The Chair:** Thank you very much, Ms. Idlout. The analysts will be able to follow up on that request.

Before we adjourn, I want to thank Minister Hajdu and officials for being here today and for providing testimony for this study.

This meeting is adjourned.









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