



Background of Chief's Steering Committee

- The mandate of the TSAG Chiefs Steering Committee (CSC) on Technical Services includes advocating for water, wastewater and the related infrastructure needs of forty-seven (47) Treaty 6, 7 and 8 First Nations in Alberta.
- The Chief's Steering Committee includes: **Chief Rupert Meneen**, Tallcree First Nation; **Chief George Arcand**, Alexander First Nation; **Chief Troy Knowlton**, Piikani Nation; **Chief Trevor John**, Kehewin Cree Nation; **Chief Aaron Young**, Chiniki First Nation; **Chief Clifford Poucette**, Wesley First Nation; and **Chief Wilfred Hooka-Nooza**, Dene Tha' First Nation; **Chief Sheldon Sunshine**, Sturgeon Lake First Nation; **Chief Jason Whiskeyjack**, Saddle Lake First Nation.

Overview of Work of CSC on Bill C-61 (First Nations Clean Water Act)

- Since the spring of 2023, the CSC has been voicing concerns regarding Canada's recent efforts to enact new clean water legislation for First Nations. These concerns include a lack of a Treaty-based framework, no binding or agreed upon implementation plan, jurisdictional over-reach, off-loading ("dump and run legislation") of liabilities and legal obligations, breach of fiduciary obligations and failure to uphold the Honour of the Crown.
- The primary effort of the CSC is to support Treaty First Nations in the Alberta Region through advocacy for strengthened Treaty and Inherent rights to Water, and not to take away from individual efforts that each Nation or groups of Nations may be separately pursuing.
- The CSC has been working to develop and pursue a legal strategy to strengthen Treaty and inherent jurisdiction to water, led by Chief Rupert Meneen of Tall Cree First Nation in Treaty 8 territory.
- In August 2023, the CSC hosted a two-day Chiefs and Technicians gathering in Edmonton, where ISC reps were invited to present the consultation draft. Hearing directly from the ISC bureaucrats on the proposed legislation left more questions and uncertainty of Canada's intentions and outcomes of the legislation.
- The efforts of the CSC are supported by the Assembly of Treaty Chiefs via resolution in September 2023.
- The CSC has advocated and written several letters to Minister Hajdu and other ISC delegates for opportunities to have Treaty Chiefs and technicians directly dialogue on the legislation with Canada to ensure issues/concerns can be raised and addressed. Canada has been reluctant to respond or specifically address concerns raised to date, but Minister Hajdu has since met with Treaty Chiefs twice in spring 2024 and scheduled a third meeting in mid-October 2024.

Updates since draft legislation tabled in Parliament

- On December 11, 2023, Bill C-61 was introduced in Canada's House of Commons.
- On January 17, 2024, Indigenous Services Canada Minister Patty Hajdu met with Treaty Chiefs, including the Chiefs Steering Committee on Technical Services in Treaty No. 6 Territory. At this meeting, Treaty Chiefs asserted that Canada had not adequately consulted on Bill C-61, Canada's *First Nations Clean Water Act*.



- Here, it was suggested by the CSC that an Alberta region Treaty Collaborative Table on Water be established and funded by Canada, led by Deputy Ministers Gina Wilson & Valerie Gideon. This table is intended to consider amendments to Bill C-61 and to inform revisions under the parliamentary process.
- Other recommendations that the CSC made include:
 - Active involvement of Treaty First Nations in any amendments to Bill C-61
 - The development of regulations if and/or when the legislation comes into force;
 - Participation in any House of Commons or Senate standing committees regarding Treaty perspectives on Bill C-61;
 - Ensuring Canada honours the FPIC principle (Free, Prior and Informed Consent).
- On February 20, 2024, Nelson Barbosa, Director General (Community Infrastructure), ISC and Jamie Brown (RDG, Alberta) hosted a hastily called meeting to discuss Bill C-61 with Treaty First Nation leadership. Chiefs did not attend given that technical officials of ISC were the only participants.
- On April 13, 2024, the CSC met with Dr. Pedro Arrojo-Agudo, the UN Special Rapporteur on Human Rights to Safe Drinking Water and Sanitation during his visit to Canada to present issues/concerns with Bill C-61 and Canada's failure to truly uphold Treaty and inherent rights to water. Dr. Arrojo-Agudo's [preliminary findings were released](#) on April 19, 2024. In a news release, he urged Canada to step up efforts to eliminate discrimination and marginalization of Indigenous people and fully uphold water rights for all.
 - The full report of the findings was released on September 9th, 2024 (available on CSC website).
- A Treaty Table on Water between Canada/Alberta Region and Treaty 6, 7 and 8 was agreed to on April 22nd, 2024, by Indigenous Services Canada Minister, Patty Hajdu at a meeting held on Treaty No. 6 Territory.
 - The first meeting was held on September 9th, 2024, on Treaty No.6 Territory.
- Chief Rupert Meneen presented the work of the CSC on Bill C-61 at the Treaty 1-11 Gathering at Cold Lake First Nations English Bay Treaty Grounds, Treaty 6, on August 30th, 2024.
- The CSC sent letters to the Assembly of First Nations (AFN) in the Fall of 2024 stating outright that they are not rights holders and that their actions support Canada with manufactured consent on Bill C-61. Furthermore, their recent passing of resolutions on Bill C-61 lacks the support (100 voting First Nations out of 634 across Turtle Island) and their overall decision-making process continuously undermines our Inherent and Treaty rights. No response has been received to date.
- Members of the CSC are providing witness testimony at the INAN Committee meetings to make clear the issues with Bill C-61.
 - On June 19th, 2024, Chief Troy Knowlton and Chief Sheldon Sunshine gave witness testimony.
 - On October 3rd, 2024, Chief Sheldon Sunshine and Chief Rupert Meneen gave witness testimony.



Speaking Notes and Key Questions for INAN Witness Testimony

October 3, 2024

INAN Witness – Objectives

- Focus on **Treaty and Inherent Rights concerns** – *Bill C-61 and all interactions with Canada respecting water and water infrastructure must meaningfully recognize our treaty and inherent rights as a foundational principle otherwise it will fail.*
- Focus on **Implementation needs and Resourcing** - *There must be commitments by Canada to develop a transition and implementation strategy. Our First Nation governments, as inherent Treaty and constitutionally protected rights holders, need to direct, lead and inform this work.*
- Focus on **Liabilities and Transfer impact** – *Canada needs to fix the problems through consistent reliable funding and ongoing inclusive efforts, not dump problems and liabilities and run.*

Chief Sheldon Sunshine, Sturgeon Lake Cree Nation, Treaty No. 8, Member of the Chiefs Steering Committee on Technical Services in the Alberta Region

Greetings (In Cree)

Thank you – I want to acknowledge that we are on the unceded territories of the Algonquin peoples. I'm going to get right into it.

For the past year or so, we as an appointed Chiefs Committee on Technical Services regarding water and water management in Alberta have monitored the progress of C-61.

As a committee, we have watched this bill progress from afar as we were not engaged in the process, regrettably and unacceptably not until the bill was already written. This bill does not meet our needs or expectations. We know we are not alone with this position. We have many regional issues in Alberta respecting water that need to be addressed and incorporated in this legislation. Without meaningful inclusion, this bill will fail First Nation governments.

We must state here, on the record, that the Assembly of First Nations (“AFN”) is being used to manufacture consent of First Nations on this Bill and this must not be allowed. At the July AFN session, a



resolution for support of Bill C-61 garnered the support of only 100 out of 600 plus First Nations and yet Canada asserts positions of strong engagement and support from First Nations throughout the development of the Bill at every opportunity. This is false. Canada continues to hide behind the AFN to manufacture consent to pursue the very things that we want to talk with you about today.

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

Today I want to spend some time expanding on our deep concerns about how C-61 ignores the unfinished business related to Treaty. Bill C-61 does not meaningfully consider or incorporate our Inherent and Treaty rights to water in its framework for addressing water and water management issues.

The treaty relationship is being ignored in this law and this is unacceptable to us as Treaty First Nations. Treaty 6, 7 and 8 Nations have inherent jurisdiction to water within our territories. We hold sacred spiritual and cultural connections to water. The health and protection of water for current and future generations is paramount to our wellbeing.

Canada cannot continue to fail our peoples with this. But if the Bill stays in its present form, it will.

There is slight reference in this bill to self-governing and modern-day treaty agreements, but not a single reference to our numbered Treaties. We want to know - why? This goes to an issue that appears to be the elephant in the room and that is that Canada, through this legislation is continuing to deny our inherent and Treaty rights to water. This is a fundamental flaw in this legislation as currently drafted.

Canada is boastful about the “protection zones” concept set out in this legislation. In hopeful theory, this can be an improvement from the status quo but only (and I emphasize only) if you have a willing government partner. This is a bit of fantasy land thinking. There is nothing binding to this concept, no legal obligations, no teeth. What happens when you don’t have a willing government partner? First Nations in the Alberta Region have been left out of significant water planning initiatives in the province of Alberta, and Bill C-61 and the addition of “protection zones” provides no assurance of this changing. This is our current reality with Alberta, who as you have been told by our leader colleagues from Treaty 7, continues to assert that it owns ALL water in what is called the Province of Alberta.

We are here today to remind you as parliamentarians, that Alberta is an incorporated entity that has no sovereignty and in fact was created well after our Treaties were made in 1876, 1877 and 1899. At no point in time did we cede or surrender our Inherent rights to our territories and this includes water.



What has happened over time has been a gradual and complete interference in our way of life. Successive Governments in Canada, whether liberal or conservative, continue to disrespect and dishonour our treaty rights and make a mockery of our Treaty relationship. We are asking you to reconsider this and if you don't, then realize that you will be complicit in the continuation of this situation. What is at stake here is the Honor of the Crown and we expect, as Canada's own UN Declaration Action Plan states it will give, its good faith dealings under Treaty.

With that, I will end and be open to taking questions. Hiy Hiy.

Chief Rupert Meneen, Tall Cree Tribal Government, Treaty No. 8, Member of the Chiefs Steering Committee on Technical Services in the Alberta Region

Greetings (in Cree)

Canada continues in its legacy of failing Treaty First Nation governments with basic human rights to safe drinking water and infrastructure. This is wrong, shameful, and unethical. And yet, here we are, in 2024, with exactly that.

Efforts to date to create and implement legislation to improve this situation have failed. Bill C-61 is intended to replace legislation from 2013 that didn't work – and in our view, this Bill will continue to fail Treaty First Nations.

Bill C-61 has a pretty nice sounding preamble with all the right language about reconciliation and recognizing rights. Sounds good on the surface, BUT it lacks teeth and does not bind Canada to ensure that this issue does what the intent of the preamble is and that is to ensure safe and viable water and water infrastructure for First Nations governments beyond best efforts. C-61 is not linked to implementation planning objectives or milestones. It serves as window dressing. A nice-looking window that we guarantee, based on our long experience with federal governments, will perpetuate substandard treatment of our water systems and access to clean drinking water for Treaty peoples.

The Bill says: An act regarding water, source water, wastewater and related infrastructure on First Nations lands. Inside the bill it says, in, on and under First Nations lands. Again, this sounds pretty good. But what it actually means is within reserve lines. Our jurisdiction under Treaty means the whole of the Treaty territory and for many of our Nations that goes well beyond provincial lines where our reserves are designated. This is what needs reconciliation if this Bill is to mean anything.



Canada's UN Declaration Action Plan states a commitment to honourably implement historic and modern treaties, consistent with article 37 of the UN Declaration. Bill C-61 is the opportunity to work on and through this. I fear Canada will not hold true to this commitment and this bill 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 longstanding needs. It does not contemplate binding obligations to ensure adequate and consistent resourcing for needs and how those needs may change over time stemming from climate change and other impacts.

The bill says Canada will use 'best efforts' to ensure access to clean and safe drinking water on reserve, but it does not bind Canada to work with us on a transition and implementation planning or strategy to ensure this will happen. Without this, it won't happen, and this legislation will fail as have previous attempts to fix this problem of access to safe and clean water and water infrastructure in our communities have failed.

Discussions we've had to date with very senior federal bureaucrats leave us beyond frustrated as they cannot answer simple questions we have raised. Under this legislation, how will our water systems be improved? What is the plan? What will be prioritized? Who will make these decisions? How will we be a part of this plan? The needs to maintain and fix water related infrastructure in Alberta are significantly higher than the 400 million per year identified as a minimum across all of Canada from the Settlement Agreement. When we raise needs, we get blank stares, generic responses and promises to get back to us but never commitments to honour those needs, prioritize and fix. We are headed to the same place of inadequate funding, inadequate levels of commitment, aging systems getting older and having more issues, and vagueness on timing.

With respect to our inherent jurisdiction to water and honouring our treaty rights and treaty relationship to govern this important issue collectively – this is left to sparse language in the pre-amble – the bare minimum that will keep or worsen an ignorant status quo.

We have distinct needs and concerns in Alberta related to drought, climate change, tailing ponds impacts and management, source water health and sustainability, priority, our voice and input to water planning initiatives. We are concerned that Canada will not do anything more than what it already does to ensure Alberta opens the door to recognition at their discretion. This needs attention and change in the legislation. Clearly, there is a leap of faith that you and all of us are being asked to take on this water and related infrastructure bill. The one size fits all is an out for Canada to leave the legal obligations under Treaty.



Since 2019, Canada has indicated that it will be gradually transferring all programs and services to willing First Nations. They are using a comparability standard, that is provincial standards, in implementation of transfer of responsibility and is calling that self-determination.

It seems to us as Treaty leaders that what Canada through ISC is trying to do is to dump and run on its obligations because they know what we know because we have told them...that the infrastructure gap in our Nations is a very big one, and much larger than what the AFN has told them.

I have stated publicly that the old jalopy that we've been left with is there because of the chronic underfunding of all programming and services including water and infrastructure. C-61 even acknowledges this in the preamble. It contains words of rhetoric and promises to do better without express binding commitments to address the outdated water and wastewater systems. Now we are being gifted this old jalopy through this Bill, which frankly as it stands now, we want to return to sender.

What this Bill will do is create the space for Canada to offload its legal and fiduciary obligations which stem from the Treaty relationship. This is not honorable. We deserve safe and clean water as a human right just as all people deserve it. The ongoing failure to fix, which will continue with Bill C-61 in its present form, represents a violation of our inherent jurisdiction to water, protected through our Treaty rights. This approach also represents a breach of Canada's fiduciary obligations to protect and uphold these rights.

We ask that Canada get real and address the actual needs it is responsible for under Treaty. As we have told the Minister's, the time is now to truly get real on reconciliation and this means good faith dealing to address the actual water and infrastructure needs of our Nations and ensure Bill C-61 is amended to address those needs – as promised under the Treaty relationship.

Key Questions and Answers

Q. What do Treaty Nations want included in any legislation that will impact our Treaty with the Crown including Bill C-61?

A. *At a minimum, we want language added to ensure that our treaty and inherent rights are the basis for our interactions and involvement with the intent of this legislation.*

Q. What would a process that met your requirements mean?

A. *At a minimum, we want to ensure there is binding language for Canada to commit to working with each Nation (or where agreed upon, regionally) on a resourced strategic transition and implementation planning process to prioritize and address all water/infrastructure issues needing*



attention. This process should extend to addressing local and regional issues of concern that reflects the Treaty Bilateral relationship we have with the Crown.

Q. How do you propose dealing with the issues you've raised regarding Alberta and concerns about water in your territories?

A. *At a minimum, we require Treaty recognition that binds all levels of government regarding jurisdiction on water or infrastructure to engage meaningfully and prioritize our treaty and inherent rights to water to ensure protection, health and longevity of water sources (strengthening and giving teeth to the Protection Zone concept).*

Q. The issue of funding sustainability for water and related infrastructure has been raised consistently, what is needed to ensure the commitments of the Class Action are met?

A. *Canada must recognize its legal obligations under the relationship of Treaty and any legislation, if it's even needed here, must clearly bind Canada to ensure ongoing funding commitments, including at minimum, those commitments set out in the Class Action Settlement Agreement on Clean Drinking Water for First Nations.*

Q. The goal has been to ensure clean and safe drinking water – does this Bill do that for Treaty Nations?

A. *Canada is legally bound to ensure clean and safe drinking water for First Nations and this must be expressly acknowledged as being a human right. Canada must move beyond "best efforts" language and ensure Canada is held to meeting its fiduciary duties, including for outstanding and legacy issues. (Fixing up the "jalopy" and not creating a "dump and run" situation).*

Q. Is there anything that can be done to make Bill C-61 in line with the Treaty obligations as you've set out here today?

A. *Canada must expressly and formally acknowledge and uphold that our jurisdiction to Water under Treaty includes the whole of our Treaty territory, beyond reserve boundaries. Further, we want all legislation to reflect Article 19 (Free, Prior and Informed Consent) and Article 37 (Recognition and enforcement of Treaty rights) of the UN Declaration on the Rights of Indigenous Peoples and as acknowledged in Canada's Action Plan on the UN Declaration.*