



BRITISH COLUMBIA
ASSEMBLY OF FIRST NATIONS



**YUKON
REGION**

First Nations Clean Water Act (C-61) Meeting Summary Report

July 2024

Overview

On July 16, 2024, the BC Assembly of First Nations (BCAFN) and the Assembly of First Nations (AFN) Yukon Region partnered to host a virtual meeting to update Chiefs, leadership and technicians on Bill C-61, *An Act Respecting Water, Source Water, Drinking Water, Wastewater and Related Infrastructure on First Nation Lands* (First Nations Clean Water Act) which is currently in the Committee stage in the House of Commons. The purpose of the meeting was to share key updates with leadership including BCAFN's legal analysis, provide information on the legislative process for Bill C-61, and seek feedback on the draft bill to inform next steps for advocacy in the parliamentary process.

Background

In 2013, the *Safe Drinking Water for First Nations Act* (SDWFNA) came into effect without the consent and endorsement of First Nations rights holders. As part of repeated calls from First Nations to replace the legislation in full partnership with rights holders and as a result of the Safe Drinking Water for First Nations Class Action Settlement Agreement which was approved by the Federal and Manitoba Courts on December 22, 2021, the SDWFNA was officially repealed in June 2022.

Indigenous Services Canada (ISC) committed to co-developing new legislation with the AFN in 2018, and since this time the AFN, in partnership with regional organizations including BCAFN and the AFN Yukon, have hosted several dialogues and engagements with rights holders on key requirements for replacement legislation.

In February 2023, Canada shared an initial consultation draft with rights holders for review and feedback by April 2023. BCAFN hosted a hybrid Engagement Session on February 27, 2023, to discuss ISC's draft proposed legislation and developed a What We Heard Report,

including a legal analysis and formal submission to ISC.

On March 13, 2023, AFN Yukon Region hosted an online engagement session with Yukon First Nations which provided an overview of the draft legislation and discussed the ways that it could impact Yukon First Nations. In April 2023, the AFN Yukon Region developed a policy paper (see link on **Page 9**) that outlined considerations of the proposed legislation from a Yukon First Nation lens, including for those First Nations with signed Final Agreements, and those who have not signed Final Agreements.

First Nations largely rejected the draft legislation, calling for ISC to meaningfully co-develop the legislation with rights holders and incorporate the feedback and guidance submitted to Canada by First Nations since 2018. ISC publicly shared an updated draft in July 2023 for additional feedback from rights holders. No known engagements were hosted by ISC with rights holders in BC or the Yukon for either draft legislative proposals, other than direct requests by individual nations.

Legislative Process

On December 11, 2023, Bill C-61 was introduced into parliament for first and second reading. The bill transitioned into Committee stage with the Standing Committee on Indigenous and Northern Affairs (INAN) on June 5, 2024, which concluded on June 19, 2024 and will resume on September 16, 2024. More information on the parliamentary process can be found in **Appendix A**.

Interested First Nations can request to appear as a witness on INAN Committee or provide a written submission by contacting the Committee Clerk, **Cédric Taquet** at:

Tel.: 613-996-1173
E-mail: INAN@parl.gc.ca

Meeting Summary

The meeting was facilitated by Melissa Hotain, member and elected council member of Sioux Valley Dakota Nation, who also serves as an independent contractor for the Assembly of First Nations (AFN) as the National Water Coordinator. The meeting opened with a prayer by Duane Gastant' Aucoin, member and Executive Councillor at Teslin Tlingit Council and co-Chair of the AFN 2SLGBTQQA+ Council.

Opening Remarks

Regional Chief Terry Teegee provided opening remarks, acknowledging that C-61 is the first distinctions-based legislation introduced since the passing of the *United Nations Declaration on the Rights of Indigenous Peoples Act* (UN Declaration Act). Regional Chief Teegee stated that regardless of federal legislation, First Nations continue to face significant challenges respecting watershed management and source water protection, leading to unsafe drinking water. He noted that some First Nations celebrate Bill C-61 as a victory for water jurisdiction and as an opportunity for meaningful progress while many others believe the bill falls short of what is needed to uphold meaningful reconciliation and the UN Declaration Act. Despite these shortfalls, Regional Chief Teegee implored leadership to engage in the parliamentary process to strengthen the opportunities for final amendments to the legislation.

Chief Dan Manuel, of Upper Nicola Band and political representative for the BC region on the AFN Chiefs Committee on Housing and Infrastructure affirmed the need for legislation to address the longstanding issue of safe drinking water for First Nations. He noted that the bill presents several opportunities for nations to uphold their water rights and a framework for shared decision-making on water. He echoed Regional Chief Terry Teegee's sentiments encouraging rights holders to engage in the parliamentary process.

Presentation Highlights

A context setting presentation was provided by BCAFN staff and BCAFN legal counsel to outline key opportunities and outstanding issues in C-61. The following opportunities and issues were identified. A full analysis can be accessed digitally for download on **page 9**.

Funding

The proposed legislation outlines obligations to consult and cooperate with First Nations on the development of a funding framework and the allocation of funds. *The legislation falls short of identifying long-term sustainable funding for First Nations, and runs the risk of continued inadequate funding despite legislative commitments (eg. First Nations continue to receive inadequate funding for language revitalization despite the legal requirements for funding as outlined in C-91 Indigenous Languages Act, 2019).*

First Nations Water Commission

Legislative and financial commitments to collaboratively develop a First Nation Water Commission with rights holders that can support First Nations water management. *It is, however, unclear how and to what extent the FNWC will be funded and its scope is unclear.*

Private and Decentralized Systems

The proposed legislation includes private collection in the definition of water services including wells, rainwater collection, cisterns, and private water systems. *It is unclear how these systems would be monitored, evaluated and maintained.*

Protection Zones

The proposed legislation provides for the protection of water and source water in protection zones off-reserve. *Protection zones are not defined in the legislation and require the full consent of a province/territory and federal government for a First Nation to proceed with enacting related provisions under the act.*

Water Quantity

Availability of water must meet the drinking, cooking, sanitation, hygiene, safety, fire protection and emergency management needs of the First Nation. *This provision limits the quantity of water available for First Nations to reserve lands and for certain purposes. Without the recognition of a right to a sufficient supply of water for essential purposes, First Nations will continue to face challenges supporting their needs that rely on water on and off reserve. This provision also does not include the quantity of water required for the exercise of Aboriginal rights and cultural practices tied to water nor does it include the quantity of water required for economic purposes, such as agriculture and commercial development.*

The above analysis was followed by a presentation by AFN staff including Julie Pellerin – Senior Director Economic Development and Infrastructure Branch and Amanda Bruce – Acting, Associate Director Strategic Policy Integration who shared detailed information on the parliamentary process and how rights holders can advocate for bill amendments by engaging in this process (see **Appendix A** for more details on this process). The AFN’s full presentation can be accessed digitally for download in **Appendix B**.

Roundtable Dialogue

For the remainder of the meeting, participants were invited to answer the following questions:

1. Are you supportive of the draft legislation, why or why not?
2. How can BCAFN and the AFN Yukon support leadership in the advancement of the legislation?
3. Are there elements of the legislation that require further clarity?

Several participants echoed tentative support for elements of the legislation, including the concept of a First Nations Water Commission, but acknowledged that the impacts of the legislation remain unclear given that many commitments use non-binding language.

Support Needed from the AFN, BCAFN and AFN Yukon

One participant emphasized the need for guidance on how the AFN, BCAFN and AFN Yukon can assist in advancing the legislation. They expressed an interest in preparing a submission but required further support to prepare and review their submission. The AFN affirmed that they would assist with this process and support the regional offices.

Holistic Approach to Water and Transboundary Management

A participant expressed the need to capture the bigger picture of safe drinking water insecurity which stems from a lack of acknowledgement of First Nations' rights to waters and watershed management. The participant emphasized that most First Nations have capacity constraints and echoed the longstanding issue of inequitable funding access for watershed protection. The participant echoed the need for the legislation to take an interconnected approach to watershed protection from source to tap that factor diverse watershed impacts such as fishing, mining, forestry, and drought management. The AFN affirmed that it is working on getting specific data on how much is needed to sustainably manage water for First Nations.

Another participant discussed ongoing efforts to create a water strategy and regional land use plan within their own First Nation in the Yukon. They highlighted the intrinsic value of water, and the importance of viewing water as a spirit with agency. The participant pointed out the jurisdictional challenges of managing transboundary water sources that flow through British Columbia, Yukon, and Alaska. They also noted issues with water delivery and usage, explaining that despite there being a state-of-the-art water treatment plant near their community, people still go to the land for source water. They emphasized the need to prioritize health and wellness over economic development, and mentioned the interconnected need for water security and language revitalization for future generations.

Elements of the Legislation Requiring Further Clarity and Advocacy

Definition and Applicability of First Nation Lands

Concerns were expressed about the definition of First Nation lands in the act and its applicability, particularly for Yukon First Nations without a modern treaty. Questions also arose about whether the legislation applies to First Nations that have “lands set aside” but not reserve land. The AFN committed to reviewing the language and proposing amendments for clarity on the definition of First Nation Lands.

Traditional Lands

Participants inquired whether traditional lands are captured in the Bill. The AFN responded that while traditional lands are not covered in this legislation, protection zones may address this to establish trilateral agreements with a First Nation, province/territory and the federal government to address jurisdiction off reserve.

Potential Revenue Sharing

Questions were raised about potential revenue-sharing opportunities for water flowing through First Nations lands. While the Bill does not address this, there could be an opportunity to establish agreements with provincial/territorial governments that could include this scope.

Water Contamination and Irrigation Issues

Concerns were expressed about water contamination risks and the need for government assistance in cleanup efforts. The necessity of addressing prolonged irrigation affecting river water levels and fish spawning conditions was emphasized.

Conclusion

BCAFN and AFN Yukon staff will continue to update Chiefs, leadership and technicians on advancements of C-61. Those interested in participating in the parliamentary process may contact sophia.lliopulos@bcafn.ca (BCAFN) or hgeiser@castlemain.com (AFN Yukon).

Appendix A: How Would C-61 Become Law And How Can First Nations Participate in the Parliamentary Process?

FIRST READING

The bill is considered read for the first time and is printed

C-61 has completed this stage

SECOND READING

House members debate the bill's principle

C-61 has completed this stage

COMMITTEE STAGE

Committee members study the bill clause by clause

C-61 is currently in this stage. First Nations may reach out to the INAN Committee members directly or request to speak in front of the INAN Committee as a whole to advocate for further changes to the bill.

REPORT STAGE

Members can make other amendments

THIRD READING

Members debate and vote on the bill

SENATE

The bill follows a similar process to the steps above

First Nations may reach out to members of the Senate directly or request to speak in front of the Senate as a whole to speak to the bill.

ROYAL ASSENT

The bill receives Royal Assent once passed by both houses

Appendix B: Supplementary Materials and Helpful Links

The following documents can be accessed on a digital version of this report. **Please click on the document/link title for access.**

- [AFN Yukon: Proposed First Nations Drinking Water and Wastewater Act Yukon First Nations Considerations](#)
- [BCAFN Legal Analysis](#)
- [BCAFN Briefing Note](#)
- [AFN Presentation: Parliamentary Process](#)
- [Bill C-61 First Nations Clean Water Act](#)
- [INAN Committee Website](#)



Graphic Illustration provided by Elena Sterritt - Gisghaast Recording

For more information, please contact:

BCAFN - sophia.lliopulos@bcfn.ca

AFN Yukon - hgeiser@castlemain.com