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Legislative Summary

BILL C-37: AN ACT RESPECTING WATER, SOURCE WATER, DRINKING WATER, WASTEWATER AND RELATED INFRASTRUCTURE ON FIRST NATION LANDS

45-1-C37-E

10 September 2026

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Library and Research Services

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Legislative Summary of Bill C-37
(Preliminary version)

45-1-C37-E

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PRELIMINARY VERSION
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CONTENTS

1 BACKGROUND 1

1.1 Access to Clean Drinking Water and Sanitation in First Nations Communities 3
1.1.1 Jurisdiction for Water and Wastewater in First Nations Communities 5
1.1.2 Roles and Responsibilities for Drinking Water and Wastewater in First Nations Communities 5
1.1.2.1 First Nations' Roles and Responsibilities 5
1.1.2.2 Federal Role 7
1.1.3 Key Challenges 7
1.1.3.1 The Absence of a Legislative or Regulatory Framework for First Nations 8
1.1.3.2 The *Safe Drinking Water for First Nations Act* 8
1.1.3.3 Federal Funding 9

2 DESCRIPTION AND ANALYSIS 9

2.1 Rights Relating to Water 10

2.2 Purpose and Principles 10
2.2.1 Reliable Access to Water Services 11
2.2.2 Substantive Equality 11
2.2.3 *United Nations Declaration on the Rights of Indigenous Peoples* 11

2.3 Minimum Standards of Water Quality and Minimum Capacity Standards for the Delivery of Water 11

2.4 Transparency 12

2.5 Funding 13

2.6 Voluntary Assumption of Water and Wastewater Infrastructure by First Nations 14

2.7 Conflicts of Laws and Limitations to Jurisdiction 15

2.8 Regulations 16

2.9 Other Agreements 16

2.10 First Nations Water Commission 16

2.11 Report, Review, Coordinating Amendment and Coming into Force 17

APPENDIX A – TEXT VERSION OF FIGURE 1

PRELIMINARY VERSION
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LEGISLATIVE SUMMARY OF BILL C-37: AN ACT RESPECTING WATER, SOURCE WATER, DRINKING WATER, WASTEWATER AND RELATED INFRASTRUCTURE ON FIRST NATION LANDS

1 BACKGROUND

Bill C-37, An Act respecting water, source water, drinking water, wastewater and related infrastructure on First Nation lands,[1] was introduced in the House of Commons by the Minister of Indigenous Services on 16 June 2026. It received first reading that same day.

Among other things, Bill C-37:

- affirms that First Nations' inherent right of self-government includes jurisdiction over water, drinking water, source water, wastewater and related infrastructure on, in and under lands reserved for First Nations (First Nation lands);[2]
- establishes principles for decision making regarding water services on First Nation lands;
- establishes minimum standards for water service provision on First Nation lands; and
- establishes a federal regulatory regime regarding water services on First Nation lands.

Bill C-37 incorporates the main clauses of Bill C-61, a bill with the same title introduced in the 44th Parliament. Bill C-37 also incorporates several key amendments to Bill C-61 recommended by the House of Commons Standing Committee on Indigenous and Northern Affairs (INAN). Bill C-61 died on the *Order Paper* when Parliament prorogued on 6 January 2025.

However, certain provisions of Bill C-37 differ from the First Reading version of Bill C-61 originally introduced in the House of Commons and the version of the bill containing INAN's recommended amendments. For example, Bill C-37 declares that it is the federal government's policy to progressively advance the human right to safe drinking water for individuals on First Nations lands. Amendments reported by INAN to the former Bill C-61, on the other hand, recognized and affirmed the human right of individuals on First Nations lands to have access to clean and safe drinking water in accordance with the bill. As introduced at First Reading, Bill C-61 did not specifically include any clauses recognizing rights to safe drinking water.

PRELIMINARY VERSION
UNEDITED

There are also differences with respect to protection zones. Bill C-37 contains similar provisions to the First Reading version of Bill C-61 concerning the definition and application of rights in protection zones. However, Bill C-37 does not retain amendments reported by INAN that would have:

- recognized First Nations jurisdiction over water and source water in protection zones not adjacent to First Nations lands subject to agreement on the coordination of laws between the First Nation and the federal and relevant provincial or territorial governments;
- required regulations concerning administration and enforcement of First Nations laws in a protection zone to be co-developed; and
- required the Minister of Indigenous Services to begin consultations on the definition of protection zones within a designated timeframe.

Bill C-37 is part of a federal government commitment in a class action lawsuit settlement agreement to introduce legislation replacing the *Safe Drinking Water for First Nations Act*.[3] In 2019, the Neskantaga First Nation and Curve Lake First Nation in Ontario and the Tataskweyak Cree Nation in Manitoba filed national class action lawsuits alleging that Canada failed to provide access to clean drinking water.[4] On 22 December 2021, the Federal Court and the Court of Queen's Bench of Manitoba[5] approved a settlement agreement to these class actions (First Nations Drinking Water Settlement Agreement).[6] The settlement agreement includes:

- compensation for certain First Nations communities and individuals subject to a drinking water advisory lasting at least one year between 20 November 1995 and 20 June 2021; and
- Canada's commitments to:
  - provide funding of at least $6 billion between 20 June 2021 and 31 March 2030 for the construction, upgrading, operation and maintenance of water infrastructure, and
  - make "all reasonable efforts" to repeal the *Safe Drinking Water for First Nations Act* and introduce replacement legislation by 31 December 2022.[7]

The following sections provide an overview of First Nations' relationship with water; drinking water advisories in First Nations communities; and jurisdiction, roles and responsibilities for the provision of water and wastewater services in First Nations communities.

PRELIMINARY VERSION
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1.1 ACCESS TO CLEAN DRINKING WATER AND SANITATION IN FIRST NATIONS COMMUNITIES

Water is a central part of First Nations cultures and ways of life. First Nations' relationships with water are reflected in their stories and laws.[8] The British Columbia Assembly of First Nations explains that:

> Water sustains all life and runs through our territories as the lifeblood of our lands. It is a sacred resource to our communities, and we rely on access to clean water for health and wellbeing, culture, customs and traditions and sustenance. We have a responsibility to protect and conserve water for our communities and for the generations to come.[9]

Some First Nations women have unique cultural relationships with water as some are water keepers "who protect, speak for, and care for water as kin."[10]

Access to clean water and sanitation are related to Aboriginal rights. In Canada, section 35 of the *Constitution Act, 1982* recognizes and affirms the "existing [A]boriginal and treaty rights" of First Nations, Inuit and Métis peoples.[11] Aboriginal rights refer to the traditions, practices and customs of distinct Indigenous groups.[12] Treaty rights refer to Aboriginal rights in treaties signed between Indigenous peoples and Canada. Some First Nations assert that they have Aboriginal and treaty rights to clean water.[13]

Human rights to safe drinking water and sanitation are recognized explicitly in certain human rights treaties binding on Canada and are implied by the rights set out in others, including the *International Covenant on Economic, Social and Cultural Rights*, which recognizes rights to "an adequate standard of living."[14] A 2015 resolution adopted by the United Nations General Assembly provides that

> the human right to safe drinking water entitles everyone, without discrimination, to have access to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic use, and that the human right to sanitation entitles everyone, without discrimination, to have physical and affordable access to sanitation, in all spheres of life, that is safe, hygienic, secure, socially and culturally acceptable and that provides privacy and ensures dignity.[15]

Article 25 of the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) provides that Indigenous peoples have the right to maintain and strengthen their unique relationships with their traditional territories and waters while upholding their responsibilities to future generations.[16] In Canada, the *United Nations Declaration on the Rights of Indigenous Peoples Act* (UNDRIP Act) affirms that UNDRIP is "a universal international human rights instrument with application in

Canadian law."[17] The UNDRIP Act also provides a framework for the federal government's implementation of the Declaration, including by requiring the Minister of Justice to develop an action plan to "achieve the objectives of the declaration."[18] The action plan, released in June 2023, includes references to water; for example, it includes a federal government commitment to continue efforts to transfer water and wastewater services to First Nations communities.[19]

Access to clean and safe drinking water is essential to First Nations cultures, economies, health and wellbeing. However, some First Nations continue to lack access to clean drinking water. Some researchers argue that First Nations' lack of access to clean drinking water is connected to the legacy and ongoing effects of federal legislation, policies and approaches to funding water infrastructure on reserve.[20] For example, the Ontario First Nations Technical Services Corporation explains that "[t]he root causes of the [water] crisis are found in the colonial project, its legacy, and in many cases, the forced relocation of many communities to areas where scarcity and resource extraction puts stress on drinking water sources."[21]

As of 4 June 2026, there were 38 drinking water advisories lasting more than one year (long-term) related to public systems on reserve in 36 First Nations communities.[22] As of 21 July 2026, there are 47 drinking water advisories on public systems on reserve that have been in effect for less than one year (short-term) in First Nations communities south of the 60th parallel and outside of British Columbia.[23] In British Columbia, as of 31 August 2026, there were 38 drinking water advisories in effect in 32 First Nations communities.[24]

The territorial governments report on drinking water advisories in all communities across their territory, including First Nations communities. As of 22 July 2026, there are no drinking water advisories in effect in Yukon. As of 22 July 2026 in the Northwest Territories, there are three long-term advisories in place.[25]

In some cases, drinking water advisories on First Nations reserves have been in place for many years. However, tracking information about drinking water advisories over time can be challenging. Data from previous years is often not comparable and it may not include information about water systems in all First Nations communities, such as those on privately managed systems.[26] Moreover, there may be multiple drinking water advisories in effect covering different buildings within the same community. These limitations make it hard to get a complete picture of First Nations drinking water advisories over time. The following sections will outline jurisdiction, roles and responsibilities for water and wastewater in First Nations communities.

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1.1.1 Jurisdiction for Water and Wastewater in First Nations Communities

Generally, in Canada, provinces and territories have jurisdiction over most areas of water protection and management. Most provinces and territories delegate responsibilities, such as drinking water and wastewater treatment, to municipalities.[27] However, the federal government has exclusive legislative authority over "Indians and lands reserved for the Indians," pursuant to section 91(24) of the *Constitution Act, 1867*, meaning that it is responsible for managing water on First Nations reserves and lands set aside in Yukon.[28] Some First Nations have authority over some aspects of water management (including provision of water services and protection of potential source water) through modern treaties and self-government agreements signed with federal, and often provincial and territorial governments.[29]

1.1.2 Roles and Responsibilities for Drinking Water and Wastewater in First Nations Communities

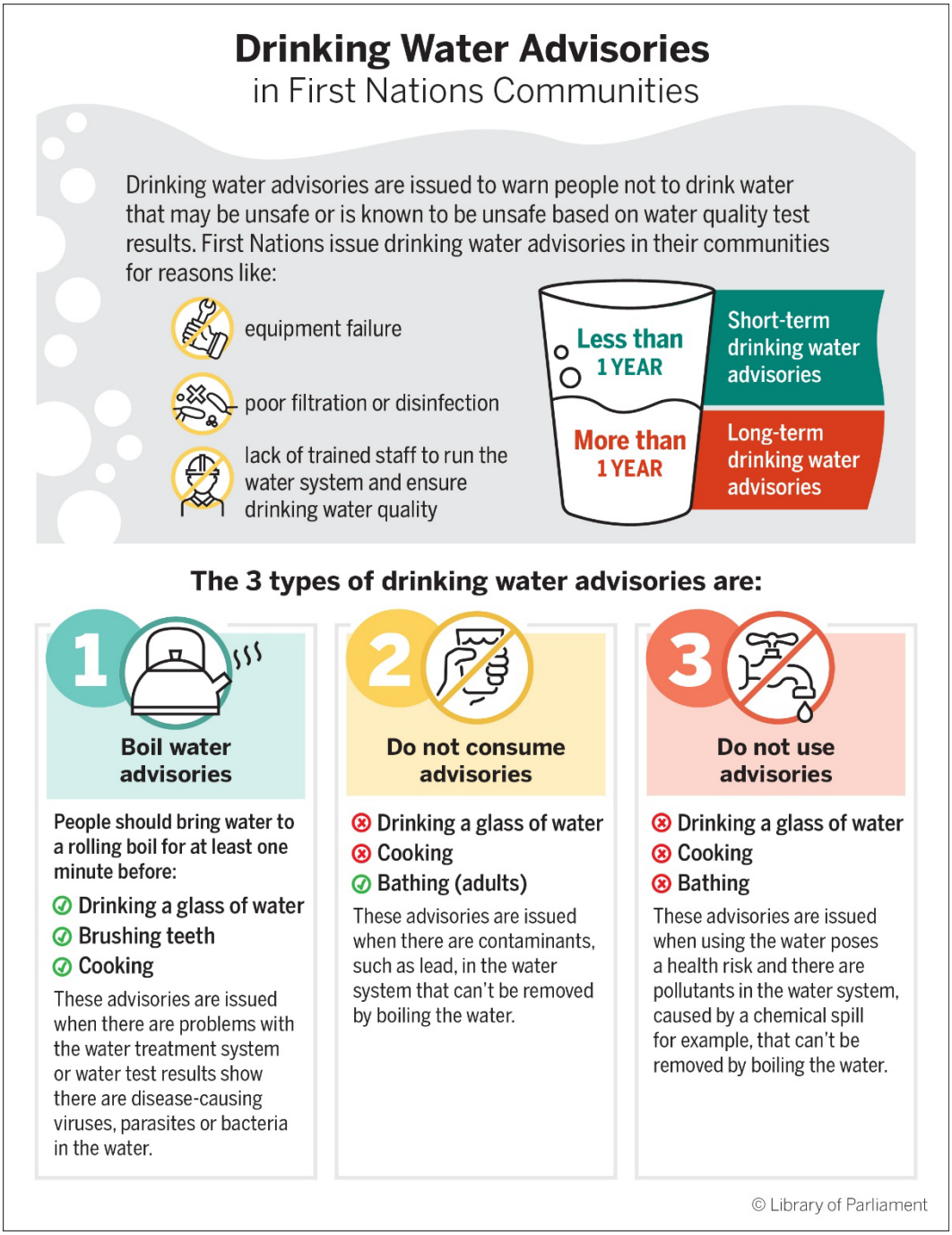
Responsibilities for water services in First Nations communities vary based on the location. In the territories, the territorial governments have the responsibility to provide safe drinking water and environmental public health services in all communities, including Indigenous communities.[30]

1.1.2.1 First Nations' Roles and Responsibilities

On First Nations reserves south of the 60th parallel, First Nations chiefs and councils manage water and wastewater systems by testing drinking water, issuing drinking water advisories as needed and planning and developing infrastructure.[31] Figure 1 provides information about the types of drinking water advisories issued by First Nations chiefs and councils.

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Figure 1 – Drinking Water Advisories in First Nations Communities



Source: Figure prepared by the Library of Parliament.

[Figure 1 – text version]

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First Nations communities have various water and wastewater systems in place in their communities including piped systems and/or those that provide water and collect wastewater by truck. Some First Nations have signed agreements with nearby municipalities for the provision of drinking water and/or wastewater services.[32]

Some First Nations organizations have taken their own approaches to deliver culturally appropriate water services. For example, the First Nations Health Authority provides environmental public health services and advice on drinking water safety to First Nations in British Columbia.[33] The Atlantic First Nations Water Authority is a First Nations water utility responsible for the operation, maintenance and capital upgrades for water and wastewater infrastructure in 13 participating First Nations communities.[34] Some First Nations organizations provide technical services related to water services in First Nations communities, including the Ontario First Nations Technical Services Corporation in Ontario and the First Nations Technical Services Advisory Group in Alberta.[35]

1.1.2.2 Federal Role

Section 6(2) of the *Department of Indigenous Services Act* provides that the Minister of Indigenous Services will ensure that services in various areas, such as health and infrastructure, are provided to Indigenous individuals and governing bodies who are eligible to receive them under federal legislation or a Government of Canada program.[36] The list of service areas does not specifically mention water and wastewater on First Nations reserves.

Through the Capital Facilities and Maintenance Program, Indigenous Services Canada (ISC) provides funding for public water and wastewater infrastructure serving five or more households or other public facilities on First Nations reserves south of the 60th parallel. Other systems such as wells and cisterns that serve individual households are not funded by ISC.[37] ISC also provides public health advice and assessments related to drinking water and wastewater through Environmental Public Health Services.

The federal government may provide funding for drinking water-related initiatives through modern treaties. For example, under the *2019 Tsawwassen First Nation Fiscal Financing Agreement*, the federal government provides transfer payments for several programs and services including a Drinking Water Safety Program.[38]

1.1.3 Key Challenges

Some of the challenges First Nations face in accessing safe drinking water, such as high capital and operating costs, are similar to those in other rural and remote communities with small water systems.[39] However, First Nations also face unique

PRELIMINARY VERSION
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challenges such as the absence of a regulatory framework for water and wastewater on reserves.[40] Moreover, the adequacy of federal funding for water and wastewater on reserves has been a long-standing concern.[41]

1.1.3.1 The Absence of a Legislative or Regulatory Framework for First Nations

Over time, provinces and territories have developed regulatory regimes covering matters such as source water protection, water quality standards and water delivery services.[42] However, provincial regimes do not apply to First Nations reserves because section 91(24) of the *Constitution Act, 1867* provides the federal government with exclusive jurisdiction over "Indians and lands reserved for the Indians."[43] Through various protocols, ISC recommends that First Nations adhere to the more stringent of either federal or provincial standards for water and wastewater systems.[44] However, there is currently no legislative or regulatory framework for water and wastewater in First Nations communities.

Concerns about the absence of a regulatory framework have been raised in reports and audits by the Office of the Auditor General of Canada for many years.[45] In 2006, the then Minister of Indian and Northern Affairs established an Expert Panel on Safe Drinking Water for First Nations (the expert panel) to consider options for a regulatory framework for First Nations water and wastewater on reserve. While the expert panel identified several options for a regulatory framework, it noted that "adequate resources – for plants and piping, training and monitoring, and operations and maintenance – are more critical to ensuring safe drinking water than is regulation alone."[46]

1.1.3.2 The *Safe Drinking Water for First Nations Act*

In 2013, Parliament enacted the *Safe Drinking Water for First Nations Act* (SDWFNA) (formerly Bill S-8).[47] The SDWFNA enabled the Governor in Council, on the recommendation of the Minister of Indian and Northern Affairs and, in some cases, the Minister of Health, to make regulations covering a number of matters related to the provision of drinking water and disposal of wastewater on First Nation lands.[48] The SDWFNA defines First Nation lands as those where the disposition is subject to the *Indian Act* or the *First Nations Land Management Act*, or First Nation lands described in regulations made by the Governor in Council for the purposes of the Act.[49]

First Nations raised concerns about the SDWFNA related to the liability of First Nations governments for actions taken under the regulations; the lack of meaningful consultation on the legislation; and the adequacy of federal funding to meet the requirements of future regulations developed under the legislation.[50] After the SDWFNA came into force, First Nations called for its repeal and replacement.[51] In accordance with provisions of the First Nations Drinking Water Settlement

PRELIMINARY VERSION
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Agreement discussed above, the SDWFNA was repealed in June 2022 by the *Budget Implementation Act, 2022, No. 1*.[52] No regulations were made under the SDWFNA prior to its repeal.[53]

1.1.3.3 Federal Funding

The federal government provides funding for water and wastewater on the basis of policy, rather than legislation.[54] The Office of the Auditor General of Canada has found that delivering programs for First Nations on reserves without a legislative base means that programs and services are not always well defined and there is confusion about federal funding responsibilities.[55] By providing funding for water and wastewater, the federal government aims to achieve service levels for First Nations on reserve comparable to other non–First Nations communities of similar size and circumstances.[56] However, a 2021 ISC internal evaluation found that this objective has not yet been achieved.[57]

First Nations and research reports have noted that the adequacy of federal funding for water and wastewater infrastructure, operations and maintenance on First Nations reserves is a long-standing concern.[58] Insufficient federal funding for operation and maintenance contributes to drinking water advisories, affects the ability to retain water and wastewater system operators, and reduces the operational lifespan of water and wastewater infrastructure in First Nations communities.[59] Some First Nations have pursued their claims in court, alleging that the federal government has not provided adequate funding for First Nations drinking water on reserve.[60]

In 2021, prior to the signing of the First Nations Drinking Water Settlement Agreement, the Office of the Parliamentary Budget Officer estimated that spending between fiscal years 2016–2017 and 2025–2026 will be sufficient for capital expenditures, but not for operations and maintenance costs.[61]

2 DESCRIPTION AND ANALYSIS

Bill C-37 contains a multi-page preamble and 44 clauses. As mentioned above, the First Nations Drinking Water Settlement Agreement requires that Canada, in consultation with First Nations, "make all reasonable efforts" to introduce legislation to replace the *Safe Drinking Water for First Nations Act* by December 2022.[62] This obligation is referred to in clause 33 of the bill, alongside the obligation to meet the terms of the First Nations Drinking Water Settlement Agreement more generally. The term "First Nation lands" is defined in clause 2 as reserve lands (including water and source water on, in and under those lands) and specifically excludes lands over which Aboriginal title is either claimed or has been confirmed by a court. Clause 2 of

PRELIMINARY VERSION
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Bill C-37 defines "water services" as systems, infrastructure and services related to drinking water, wastewater and water used for sanitation, cooking or hygiene purposes, including the protection of aquifers and groundwater.

Key clauses in relation to water services on First Nations lands are discussed below.

2.1 RIGHTS RELATING TO WATER

Clause 3 declares that the federal government's policy is to "further the progressive realization" of safe drinking water as a human right for individuals on First Nation lands as protected under the *International Covenant on Economic, Social and Cultural Rights*. References to the "progressive realization" economic, social and cultural rights are also included in the *National Housing Strategy Act* and the *Canada Early Learning and Child Care Act*.[63] The *National Housing Strategy Act* declares that it is the policy of the Government of Canada to recognize the international human right to adequate housing and to further its progressive realization as recognized in the *International Covenant on Economic, Social and Cultural Rights* (sections 4(a) and 4(d)). The *Canada Early Learning and Child Care Act* provides that the purpose of the Act is to further the progressive realization of the right to benefit from childcare services recognized in the *Convention on the Rights of the Child*. The use of the phrasing "progressive realization" in relation to economic, social and cultural rights is standard language in international law used to describe states' obligations. The Office of the High Commissioner for Human Rights provides more information about the meaning of the phrase "progressive realization" noting that States are obligated to "take appropriate steps to ensure continuous and sustained improvement in the enjoyment of these rights over time" regardless of the availability of resources.[64]

2.2 PURPOSE AND PRINCIPLES

The stated purposes of Bill C-37 include ensuring that First Nations have access to safe and adequate quantity and quality of drinking water; affirming that the "inherent right of First Nations to self-government" includes jurisdiction over drinking water; ensuring that laws, policies and practices in relation to water services on First Nations lands are consistent with section 35 of the *Constitution Act, 1982* and UNDRIP; and establishing principles related to decision making under the law (clause 4). Clause 5 lists three guiding principles: reliable access to water services, substantive equality and UNDRIP.

PRELIMINARY VERSION
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2.2.1 Reliable Access to Water Services

Clause 5(1) provides that decision-making under the law is to be based on First Nations having reliable access to water services on their lands. Among other things, that clause notes the importance of safe drinking water and effective treatment and disposal of wastewater for the health of the community and the environment. It also notes that reliable access to safe drinking water depends on the effective management and monitoring of all stages of water services delivery.

2.2.2 Substantive Equality

Decisions made under Bill C-37 are to be guided by substantive equality.[65] Specifically:

- First Nations' reliable access to water services must be comparable to that in non-Indigenous communities (clause 5(2)(a)).
- First Nations must have control over their water services, including related data (clause 5(2)(b)).
- First Nations may deliver water services as they see fit, including by using innovative approaches and technology (clause 5(2)(c)).

2.2.3 *United Nations Declaration on the Rights of Indigenous Peoples*

Clause 5(3) provides that UNDRIP including the principle of "free, prior and informed consent" is to guide decisions made under the bill.[66] The clause also references three specific articles of UNDRIP that require free, prior and informed consent for specific activities.

2.3 MINIMUM STANDARDS OF WATER QUALITY AND MINIMUM CAPACITY STANDARDS FOR THE DELIVERY OF WATER

To support sustainable First Nation water and wastewater systems, the First Nations Drinking Water Settlement provides that the legislation to replace the now repealed *Safe Drinking Water for First Nations Act* shall include provisions:

> (i) defining minimum standards of water quality for First Nation Water and Wastewater Systems, with reference to standards that are directly applicable to First Nation communities; and
>
> (ii) defining minimum capacity standards for the delivery of water to First Nation communities, in terms of volume per individual community member.[67]

PRELIMINARY VERSION
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Clauses 14 and 17 of Bill C-37 provide that a First Nation governing body can choose between two standards for drinking water quality for water from both public and private systems on their lands: the *Guidelines for Canadian Drinking Water Quality*[68] or the provincial or territorial standards that are in place where the First Nation lands are located.

Clauses 16 and 17 provide that a First Nation governing body can choose between two standards for wastewater effluent from both public and private systems on their lands:[69] the standard set out in the *Wastewater Systems Effluent Regulations*[70] or the provincial or territorial standards that are in place where the First Nation lands are located.

If a First Nation governing body does not choose standards for water quality and wastewater effluent, the Minister of Indigenous Services must make "best efforts"[71] within 90 days of the law coming into force to consult and cooperate with that governing body to determine which standard is highest and those standards will apply to the First Nation's lands (clause 18).

Based on both current and projected water usage, water quantity must meet several specific needs, including for drinking, sanitation and emergency management. Cultural and spiritual needs must also be taken into account in determining water quantity (clause 15).

Clause 26 requires that the Minister of Indigenous Services make best efforts to ensure that "all residents, occupants and users of buildings located on the First Nation lands of the First Nation" have access to clean and safe drinking water, whether from a public or private water system. Access to clean and safe drinking water must be provided in a way that meets federal obligations and commitments set out elsewhere in the bill related to the provision of funding for water services comparable to those received by individuals in non-Indigenous communities (clause 31) and the implementation of the First Nations Drinking Water Settlement Agreement (clause 34).

2.4 TRANSPARENCY

The First Nations Drinking Water Settlement Agreement requires that the replacement legislation "create a transparent approach to building, improving, and providing drinking water and wastewater services for First Nations."[72] As mentioned above, clause 5 of Bill C-37 sets out the principles that are to guide decision-making under the law. Clause 5(1)(d) notes that transparency and accountability form the basis of effective water service management and monitoring.

PRELIMINARY VERSION
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2.5 FUNDING

The First Nations Drinking Water Settlement Agreement requires that replacement legislation "confirm adequate and sustainable funding for First Nation Water and Wastewater Systems."[73] Bill C-37's preamble includes references to funding, including that the Government of Canada acknowledges

> that First Nations have made multiple calls for water services funding that is adequate, predictable, stable, sustainable, needs-based and consistent with the principle of substantive equality in order to secure long-term positive outcomes for First Nations.

As mentioned above, the First Nations Drinking Water Settlement Agreement also requires that the Government of Canada spend at least $6 billion between 20 June 2021 and 31 March 2030 to meet the commitments under the settlement.[74] Clause 34 reinforces that commitment by specifying that at a minimum, the Government of Canada must provide that stipulated amount of funding.

One of the first steps to be taken in relation to funding is developing a framework to assess needs and make and implement funding decisions. To that end, the Minister of Indigenous Services must co-develop the framework with First Nations governing bodies (clause 27(1)). The framework is to be completed one year after clause 27(5) comes into force or the final day of a longer timeframe requested by First Nations governing bodies or the Minister of Indigenous Services. Clause 27(2) lists 12 matters that could be considered during the development of the framework, including amongst others actual and remoteness costs, capital, upgrades, operations and maintenance, as well as First Nations insurance requirements. Clause 27(3) identifies principles for consultations and cooperation with respect to funding allocation decisions, including that funding "be adequate, predictable, stable, sustainable and needs-based" and that infrastructure funding consider current and future needs. Clause 19(1)(c) provides the Governor in Council with regulation-making authority in relation to the consultation process for funding allocation decisions.

Other funding requirements set out in Bill C-37 include that the Government of Canada "must make best efforts" to provide funding that: (1) reflects consultations and meets the needs assessed in the framework set out in section 27(1); and (2) is "adequate, predictable, stable, sustainable and needs-based," so that water services on First Nations lands are comparable to water services for non-Indigenous communities, based on the principle of substantive equality (clauses 30 and 31).

PRELIMINARY VERSION
UNEDITED

2.6 VOLUNTARY ASSUMPTION OF WATER AND WASTEWATER INFRASTRUCTURE BY FIRST NATIONS

The replacement legislation required by the First Nations Drinking Water Settlement Agreement must "support the voluntary assumption of water and wastewater infrastructure by First Nations."[75]

Key to the voluntary assumption of infrastructure by First Nations is the bill's recognition and affirmation that section 35 of the *Constitution Act, 1982* protects an inherent right of self-government that includes jurisdiction over water, source water, drinking water, wastewater and related infrastructure on, in and under First Nation lands (clause 6(1)(a)). This jurisdiction also applies to water and source water in a protection zone that is adjacent to the First Nation lands of a First Nation, if there is agreement among the First Nation, as well as federal and provincial or territorial governments where the protection zone is located, on how to coordinate the application of the laws of all three jurisdictions in the protection zone (clause 6(1)(b)). After consultation and cooperation with First Nation governing bodies, federal ministers and provincial and territorial governments, "protection zone" is to be defined in regulations (clause 21).

If requested by a First Nation governing body, the minister of Indigenous Services may make regulations concerning the administration and enforcement of First Nations laws applicable in a protection zone (clause 22(1)). The Minister of Indigenous Services must consult and cooperate with a First Nation governing body and provincial or territorial government where the protection zone is located prior to making regulations (clause 22(2)). Regulations must not come into force without the free, prior and informed consent of a First Nations governing body (clause 22(3)).

Jurisdiction explicitly includes legislative, administrative, enforcement and specified dispute resolution authority as set out in clause 6(2). A First Nation governing body can request to enter into an agreement with the Minister of Indigenous Services in relation to the minister's support for the governing body's exercise of jurisdiction (clause 23(1)). The agreement can include fiscal arrangements for water services delivery and arrangements for data and information sharing (clause 23(2)).

Other relevant clauses that support the voluntary assumption of water and wastewater infrastructure by First Nations include the following:

- a First Nation governing body's ability to delegate jurisdiction to a provincial or territorial government, public body or not-for-profit corporation, provided that the government, public body or not-for-profit corporation consents (clause 10); and
- a First Nation governing body's ability to enter into an agreement with the Minister of Indigenous Services or other listed partners, such as provincial or territorial governments, to administer and enforce its First Nation laws (clause 24).

PRELIMINARY VERSION
UNEDITED

Under the bill, employees or persons hired by a First Nation governing body are immune from action or other proceedings for damages (clause 37). In the case of a First Nation governing body, there is no liability if the omissions or acts were committed in good faith and the "Government of Canada did not make best efforts to provide adequate funding for water services on those First Nation lands" (clause 37(2)). For the Crown, there is no liability "if the Government of Canada made best efforts to provide adequate funding for water services on those First Nation lands" (clause 37(3)).

2.7 CONFLICTS OF LAWS AND LIMITATIONS TO JURISDICTION

Clause 11 establishes that where a provision of a First Nation law is inconsistent or conflicts with a federal law or regulations, the First Nation law prevails over federal laws and regulations except for the provisions of clause 11, which refers to:

- the *Canadian Human Rights Act*, the *Access to Information Act*, and the *Privacy Act*;
- the guiding principles relating to decision-making under the bill set out in clause 5;
- the *Canadian Charter of Rights and Freedoms*, which applies to a First Nation governing body exercising its jurisdiction (clause 7);
- the *Fisheries Act*, the *Canadian Navigable Waters Act*, the *Migratory Birds Convention Act, 1994*, the *Canada Marine Act*, the *Canadian Environmental Protection Act, 1999*, the *Canada Shipping Act, 2001* and the *Species at Risk Act*, as well as their regulations (clause 8);
- the requirement that a First Nation governing body publish a First Nation law as soon as possible after making the law, including by publishing online and in the *First Nations Gazette* (clause 9); and
- drinking water quality, water quantity and wastewater effluent standards set out in clauses 14 to 16.

Where provisions of a modern treaty or self-government agreement are inconsistent or conflict with the bill or regulations made under the bill, the provisions of the modern treaty or self-government agreement prevail (clause 12(1)).

Where provisions of an *Indian Act* by-law[76] are inconsistent or conflict with regulations made under the bill, the provisions of the regulation prevail (clause 13).

PRELIMINARY VERSION
UNEDITED

2.8 REGULATIONS

Clause 19 authorizes the Governor in Council to make regulations under the bill. Among other topics, regulation-making authority contained in clause 19(1) relates to managing and monitoring water services, protecting source water, the disclosure of information, insurance requirements for water services and water service operators and minimum standards for water services. Regulations can also be made in relation to administering and enforcing the regulations (clause 19(1)(j)).

Bill C-37 enables the Minister of Indigenous Services to share information with a First Nation about insurance terms and conditions or insurability of water services, if the information was obtained regarding a regulation related to insurance requirements (clause 19(4)).

Before making a recommendation relating to a regulation, the Minister of Indigenous Services must consult and cooperate with First Nation governing bodies (clause 20(1)). Recommendations must "reflect co-development" with First Nation governing bodies (clause 20(1)).

The Minister of Indigenous Services must make best efforts to begin such consultations within six months of the law's coming into force (clause 20(2)). A First Nation law can opt out of regulations applying to its First Nation lands (clause 19(2)).

2.9 OTHER AGREEMENTS

Clause 25 allows the Minister of Indigenous Services to enter into an agreement with a First Nation governing body or a public body acting under the authority of a First Nation, in relation to protecting source water, water services, or administration and enforcement of regulations and First Nations laws. Clause 25 also allows the Minister of Indigenous Services to enter into an agreement on those topics with a provincial, territorial or municipal government. If those latter agreements might affect a First Nation, if the First Nation so chooses, it must be a party to the agreement. If a First Nation chooses not to be a party, they must be consulted before the agreement is entered into.

2.10 FIRST NATIONS WATER COMMISSION

Clauses 39 and 40 relate to the future establishment of a First Nations Water Commission. The terms of reference for the not-for-profit corporation must be developed in consultation and cooperation with First Nation governing bodies (clause 39(1)). The Minister of Indigenous Services must make best efforts to begin the consultations within six months of Royal Assent (clause 39(4)). The terms of reference must provide that one of the Commission's purposes is to support

Bill C-37's purpose and principles (clause 39(2)(a)). The Commission may, at any time, make special reports to the Minister of Indigenous Services on urgent matters within its powers, which the Minister of Indigenous Services must table in each House of Parliament (clauses 39(2)(c) and clause 41). All of the commission's reports, including special reports, are to be published on the commission's website in both official languages and in any Indigenous language it considers necessary (clause 39(2)(d)).

Clause 32 requires the Government of Canada to make best efforts to provide sustainable funding to implement the Commission's terms of reference. The Commission's annual report must be tabled in the House of Commons and the Senate (clause 40).

2.11 REPORT, REVIEW, COORDINATING AMENDMENT AND COMING INTO FORCE

In consultation and cooperation with First Nations, the Minister of Indigenous Services must report annually on the results of consultation and cooperation that are required by the law (clause 42). Clause 43 requires that a review of the law in consultation and cooperation with First Nation governing bodies and based on criteria jointly developed by First Nations and the Minister of Indigenous Services, be commenced five years after the section comes into force. The review's report must be tabled in each House of Parliament within six years of the coming into force of the law.

Bill C-37 comes into force one year after it receives Royal Assent (clause 44).

NOTES

1. Bill C-37, An Act respecting water, source water, drinking water, wastewater and related infrastructure on First Nation lands, 45th Parliament, 1st Session (Bill C-37).
2. Bill C-37 defines "First Nation lands" as land including "water and source water on, in and under those lands" referred to in section 91(24) of the *Constitution Act, 1867* which refers to "Indians and lands reserved for the Indians." First Nation lands do not include "lands over which Aboriginal title is claimed by a First Nation or has been confirmed by a court." Bill C-37, clause 2.
3. *Settlement Agreement Between Tataskweyak Cree Nation, Curve Lake First Nation, Neskantaga First Nation and Canada*, 15 September 2021, cls. 9.03(1) and 9.02(2); Indigenous Services Canada, *Together with First Nations leadership, Minister Patty Hajdu introduces a Bill to support clean drinking water in First Nations communities*, News release, 11 December 2023; and Tonina Simeone and Shauna Troniak, *Legislative Summary of Bill S-8: The Safe Drinking Water for First Nations Act*, Publication no. 41-1-S8-E, Library of Parliament, 19 April 2012.
4. *Tataskweyak Cree Nation et al. v. Canada; Curve Lake First Nation et al. v. Canada*, 2021 MBQB 275, para. 29; and First Nations Drinking Water Settlement, *About*.
5. Currently, the Court of King's Bench of Manitoba.

PRELIMINARY VERSION
UNEDITED

6. Indigenous Services Canada, *Courts approve settlement agreement to resolve class action litigation related to safe drinking water in First Nations communities*, News release, 23 December 2021.

7. The settlement specifically excludes members from the following First Nations: Tsuu T'ina Nation (Alberta); Sucker Creek First Nation (Alberta); Ermineskin Cree Nation (Alberta); Blood Tribe (Kainai Nation) (Alberta); and the Okanagan Indian Band (British Columbia). First Nations Drinking Water Settlement, *FAQs*; and *Settlement Agreement Between Tataskweyak Cree Nation, Curve Lake First Nation, Neskantaga First Nation and Canada*, ss. 9.02(2), 9.03(1) and 9.03(2).

8. National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*, Vol. 1a, 2019, p. 158; and Aimée Craft, "Navigating Our Ongoing Sacred Legal Relationship with *Nibi* (Water)," in Centre for International Governance Innovation, *UNDRIP Implementation: More Reflections on the Braiding of International, Domestic and Indigenous Laws*, Special report, 2018, p. 56.

9. British Columbia Assembly of First Nations, *Water*.

10. National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*, Vol. 1a, 2019, pp. 159 and 570; and Native Women's Association of Canada, *Environment*.

11. *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982*, 1982, c. 11 (U.K.), s. 35(1).

12. *Delgamuukw v. British Columbia*, [1997] 3 S.C.R. 1010.

13. Nina Makinaw, Ermineskin Cree Nation, Letter to the Honourable Minister Patty Hajdu, Re: Bill C-61 First Nations Clean Water Act – Needed Amendments, 29 February 2024; Assembly of First Nations, *First Nations Treaty and Inherent Rights to Water*, Resolution No. 01/2019; *Tsuu T'ina Nation v. Alberta (Environment)*, 2010 ABCA 137 (CanLII); Senate, Standing Committee on Indigenous Peoples (APPA), *Evidence*, 3 June 2022 (Byron Louis, Chief, Okanagan Indian Band); and Clayton D Leonard, JFK Law LLP, *RE: Kainai/Blood Tribe Submission on Division 3 of Part 5 of Bill C-19*, Brief submitted to APPA, 31 May 2022.

14. United Nations (UN), Office of the High Commissioner for Human Rights, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, art. 11(1) and 12. Explicit provisions protecting the rights to water and sanitation are found in the *Convention on the Elimination of All Forms of Discrimination against Women*, 1979, art. 14(2)(h); *Convention on the Rights of the Child*, 1989, art 24(2)(c) and the *Convention on the Rights of Persons with Disabilities*, 2006, art. 28(2)(a). See also: UN, General Assembly, *Visit to Canada: Report of the Special Rapporteur on the human rights to safe drinking water and sanitation, Pedro Arrojo Agudo*, UN Human Rights Council, A/HRC/57/48/Add.1, 11 September 2024.

15. UN, General Assembly, *Resolution 64/292. The human right to water and sanitation*, 3 August 2010. The right is derived from the right to an adequate standard of living under article 11(1) of the *International Covenant on Economic, Social and Cultural Rights*, to which Canada is a party. UN, General Assembly, *Resolution 70/169. The human rights to safe drinking water and sanitation*, 17 December 2015.

16. United Nations, *United Nations Declaration on the Rights of Indigenous Peoples*, 13 September 2007, art. 25.

17. *United Nations Declaration on the Rights of Indigenous Peoples Act*, S.C. 2021, c. 14, s. 4; and Sara Fryer and Olivier Leblanc-Laurendeau, *Legislative Summary of Bill C-15: An Act respecting the United Nations Declaration on the Rights of Indigenous Peoples*, Publication no. 43-2-C15-E, Library of Parliament, 18 May 2021.

18. *United Nations Declaration on the Rights of Indigenous Peoples Act*, S.C. 2021, c. 14, s. 6.

19. Government of Canada, *The* United Nations Declaration on the Rights of Indigenous Peoples Act *Action Plan*, 2023, p. 53.

20. For example, see Warrick Baijius and Robert J. Patrick, "'We Don't Drink the Water Here': The Reproduction of Undrinkable Water for First Nations in Canada," *Water*, Vol. 11, No. 5, 2019; Lyndsey Huynh et al., "Examining the connection between water concerns, water anxiety, and resilience among Indigenous persons: A systematic scoping review," *Child Abuse & Neglect*, Vol. 148, February 2024; Wilfried Laurier University, *How can Canada deliver safe drinking water to First Nation communities? Q and A with Laurier researcher Sheri Longboat*, 20 March 2024; Pamela Palmater, "First Nations water problems a crisis of Canada's own making," *Policy Options*, 6 February 2019; Jaida Beaudin, Yellowhead Institute, "Water is Life: The fatal links between water infrastructure, COVID-19, and First Nations in Canada," *The Indian Department*, 9 March 2021; and Margot Hurlbert et al., "Decolonizing Indigenous Drinking Water Challenges and Implications: Focusing on Indigenous Water Governance and Sovereignty," *Water*, Vol. 16, No. 5, 2024.

21. Ontario First Nations Technical Services Corporation, *Decolonizing water governance: Addressing the water crisis in Ontario through recognition of First Nations jurisdiction*, July 2022, p. 3.

22. Indigenous Services Canada, *Ending long-term drinking water advisories*; and Indigenous Services Canada, *Map of lifted and active drinking water advisories*.

23. The First Nations Health Authority reports on drinking water advisories in British Columbia. Indigenous Services Canada, *Short-term drinking water advisories*.

24. First Nations Health Authority, *Monthly Drinking Water Advisories in First Nations Communities in BC – August 2026*.

25. Northwest Territories, Health and Social Services, "Types of Water Advisories: Boil Water Advisories," *Drinking Water Advisories*.

26. For example, the claim forms for the First Nations Drinking Water Settlement contain data about First Nations long-term drinking water advisories between 20 November 1995 and 20 June 2021. However, not all First Nations communities signed the First Nations Drinking Water Settlement. A sessional paper also provides information about drinking water advisories in First Nations communities from 2006 to 2011. See First Nations Drinking Water Settlement, *Claim Form for Individuals*; and Government of Canada, Inquiry of ministry: Q-359 – Reply by the Minister of Health and Minister of the Canadian Northern Economic Development Agency, Sessional Paper No. 8555-411-359, House of Commons, 9 December 2011.

27. Environment and Climate Change Canada, *Water governance and legislation: shared responsibility*.

28. *Constitution Act, 1867*, 30 & 31 Victoria, c. 3 (U.K.), s. 91(24); and Environment and Climate Change Canada, *Water governance and legislation: shared responsibility*.

29. See, for example, Crown-Indigenous Relations and Northern Affairs Canada, *Tsawwassen First Nation Final Agreement*, 6 December 2007, ss. 22–27; and Crown-Indigenous Relations and Northern Affairs Canada, *Sioux Valley Dakota Nation Governance Agreement and Tripartite Governance Agreement*, 30 August 2013, s. 15.03.

30. Indigenous Services Canada, *Roles and responsibilities*; and Indigenous Services Canada, *Map of long-term drinking water advisories on public systems on reserves*.

31. Indigenous Services Canada, *Roles and responsibilities*.

32. Office of the Parliamentary Budget Officer, *Budget Sufficiency for First Nations Water and Wastewater Infrastructure*, 7 December 2017, pp. 11–12; and Indigenous Services Canada, *Evaluation of the Water and Wastewater On-Reserve Program*, March 2021.

33. First Nations Health Authority, *Drinking Water Safety Program*.

34. Atlantic First Nations Water Authority Inc., *About Us*; and Atlantic First Nations Water Authority Inc., *Members*.

35. See Ontario First Nations Technical Services Corporation and First Nations Technical Services Advisory Group Inc.

36. *Department of Indigenous Services Act*, S.C. 2019, c. 29, s. 336, s. 6(2).

37. Office of the Auditor General of Canada, *Access to Safe Drinking Water in First Nations Communities – Indigenous Services Canada*, Report 3 in *2021 Reports of the Auditor General of Canada to the Parliament of Canada*.

38. *2019 Tsawwassen First Nation Fiscal Financing Agreement*, 1 April 2019, Schedule B, s. 4.1.

39. Tonina Simeone and Shauna Troniak, *Legislative Summary of Bill S-8: The Safe Drinking Water for First Nations Act*, Publication no. 41-1-S8-E, Library of Parliament, 19 April 2012; and Office of the Auditor General of Canada, *Access to Safe Drinking Water in First Nations Communities – Indigenous Services Canada*, Report 3 in *2021 Reports of the Auditor General of Canada to the Parliament of Canada*.

40. Tonina Simeone and Shauna Troniak, *Legislative Summary of Bill S-8: The Safe Drinking Water for First Nations Act*, Publication no. 41-1-S8-E, Library of Parliament, 19 April 2012; and Indigenous Services Canada, *Evaluation of the Water and Wastewater On-Reserve Program*, March 2021.

41. Indigenous Services Canada, *Evaluation of the Water and Wastewater On-Reserve Program*, March 2021.

42. Tonina Simeone and Shauna Troniak, *Legislative Summary of Bill S-8: The Safe Drinking Water for First Nations Act*, Publication no. 41-1-S8-E, Library of Parliament, 19 April 2012.

43. Tonina Simeone and Shauna Troniak, *Legislative Summary of Bill S-8: The Safe Drinking Water for First Nations Act*, Publication no. 41-1-S8-E, Library of Parliament, 19 April 2012; and Office of the Auditor General of Canada, *Access to Safe Drinking Water in First Nations Communities – Indigenous Services Canada*, Report 3 in *2021 Reports of the Auditor General of Canada to the Parliament of Canada*.

44. Office of the Auditor General of Canada, *Access to Safe Drinking Water in First Nations Communities – Indigenous Services Canada*, Report 3 in *2021 Reports of the Auditor General of Canada to the Parliament of Canada*; and Aboriginal Affairs and Northern Development Canada, *Protocol for Centralised Wastewater Systems in First Nations Communities*, February 2010.

45. For example, Office of the Auditor General of Canada, *Access to Safe Drinking Water in First Nations Communities – Indigenous Services Canada*, Report 3 in *2021 Reports of the Auditor General of Canada to the Parliament of Canada*; and Office of the Auditor General of Canada, *Follow-up on Programs for First Nations*, 2025 Report of the Auditor General of Canada to the Parliament of Canada, p. 5.

46. Minister of Public Works and Government Services Canada, *Report of the Expert Panel on Safe Drinking Water for First Nations*, Vol. I, November 2006, p. 22.

47. *Safe Drinking Water for First Nations Act*, S.C. 2013, c. 21; Bill S-8, An Act respecting the safety of drinking water on First Nation lands, 41st Parliament, 1st Session; and Tonina Simeone and Shauna Troniak, *Legislative Summary of Bill S-8: The Safe Drinking Water for First Nations Act*, Publication no. 41-1-S8-E, Library of Parliament, 19 April 2012.

48. *Safe Drinking Water for First Nations Act*, S.C. 2013, c. 21, s. 4.

49. *Ibid*., ss. 2(1)–2(2).

50. Office of the Auditor General of Canada, *Access to Safe Drinking Water in First Nations Communities – Indigenous Services Canada*, Report 3 in *2021 Reports of the Auditor General of Canada to the Parliament of Canada*; Atlantic Policy Congress of First Nations Chiefs Secretariat, *Policy Initiatives*; APPA, *Evidence*, 8 May 2012 (Eric Morris, Regional Chief, Council of Yukon First Nations); APPA, *Evidence*, 8 May 2012 (John Paul, Executive Director, Atlantic Policy Congress of First Nations Chiefs Secretariat); APPA, *Evidence*, 8 May 2012 (Madeleine Paul, Chief, Eagle Village First Nation, Kipawa, Assembly of First Nations of Quebec and Labrador); APPA, *Evidence*, 8 May 2012 (Roger Redman, Representative, Federation of Saskatchewan Indian Nations); APPA, *Evidence*, 8 May 2012 (Guy Latouche, Consultant, Assembly of First Nations of Quebec and Labrador); APPA, *Evidence*, 9 May 2012 (Chief Robert Chamberlin, Vice-President, Union of British Columbia Indian Chiefs); APPA, *Evidence*, 16 May 2012 (Kevin McKay, Chairperson, Nisga'a Lisims Government); House of Commons, Standing Committee on Aboriginal Affairs and Northern Development (AANO), *Evidence*, 23 May 2013, 1105 (Robert Howsam, Executive Director, Ontario First Nations Technical Services Advisory Group); and AANO, *Evidence*, 28 May 2013, 0905 (Chief Charles Weaselhead, Chief, Blood Tribe/Kainai).

51. See, for example, Assembly of First Nations, Special Chiefs Assembly (5–7 December 2017), "Resolution no. 88/2017 – First Nations led Engagement Process for Safe Drinking Water Legislation," *2017 Special Chiefs Assembly – Ottawa, ON: Final Resolutions*; Government of Canada, *Government Response to the Third Report of the Standing Committee on Public Accounts,* Access to Safe Drinking Water in First Nations Communities, p. 12; and Indigenous Services Canada, *Bill C-61: First Nations Clean Water Act (short title), or an Act respecting water, source water, drinking water, wastewater and related infrastructure on First Nation lands*, Backgrounder, 11 December 2023.

PRELIMINARY VERSION
UNEDITED

52. *Budget Implementation Act, 2022, No. 1*, S.C. 2022, c. 10, Part 5, Division 3.

53. Office of the Auditor General of Canada, *Access to Safe Drinking Water in First Nations Communities – Indigenous Services Canada*, Report 3 in *2021 Reports of the Auditor General of Canada to the Parliament of Canada*.

54. For example, see Indigenous Services Canada, "Volume 1 – Capital Facilities and Maintenance – Potable Water and Wastewater Systems," *Water and Wastewater Policy and Level of Services Standards (Corporate Manual System)*.

55. Office of the Auditor General of Canada, *Programs for First Nations on Reserves*, Chapter 4 in *2011 Status Report of the Auditor General of Canada to the House of Commons*.

56. Indigenous Services Canada, *Evaluation of the Water and Wastewater On-Reserve Program*, March 2021.

57. *Ibid*.

58. For example, see Tonina Simeone and Shauna Troniak, *Legislative Summary of Bill S-8: The Safe Drinking Water for First Nations Act*, Publication no. 41-1-S8-E, Library of Parliament, 19 April 2012; Office of the Auditor General of Canada, *Access to Safe Drinking Water in First Nations Communities – Indigenous Services Canada*, Report 3 in *2021 Reports of the Auditor General of Canada to the Parliament of Canada*; Neal Spicer et al., "Drinking Water Consumption Patterns: An Exploration of Risk Perception and Governance in Two First Nations Communities," *Sustainability*, Vol. 12, No. 17, 2020, p. 6851; Indigenous Services Canada, *Evaluation of the Water and Wastewater On-Reserve Program*, March 2021; and Minister of Public Works and Government Services Canada, *Report of the Expert Panel on Safe Drinking Water for First Nations*, Vol. I, November 2006, p. 22.

59. Indigenous Services Canada, *Evaluation of the Water and Wastewater On-Reserve Program*, March 2021.

60. *Tataskweyak Cree Nation et al. v. Canada; Curve Lake First Nation et al. v. Canada*, 2021 MBQB 275, para. 30; and *Shamattawa First Nation v. Canada (Attorney General)*, 2025 FC 1927.

61. Jill Giswold and Nasreddine Ammar, *Clean Water for First Nations: Is the Government Spending Enough?*, Office of the Parliamentary Budget Officer, 1 December 2021.

62. *Settlement Agreement Between Tataskweyak Cree Nation, Curve Lake First Nation, Neskantaga First Nation and Canada*, s. 9.03(1).

63. *Canada Early Learning and Child Care Act*, S.C. 2024, c. 2, s. 5(e); and *National Housing Strategy Act*, S.C. 2019, c. 29, s. 313.

64. United Nations Office of the High Commissioner for Human Rights, *Economic, Social and Cultural Rights*.

65. Substantive equality recognizes that laws can affect groups differently, and that systemic disadvantage can mean that different, rather than identical treatment, is necessary to avoid furthering that disadvantage. Revised by Robert Mason, *Section 15 of the Canadian Charter of Rights and Freedoms: The Development of the Supreme Court of Canada's Approach to Equality Rights Under the Charter*, Publication no. 2013-83-E, Library of Parliament, 30 August 2024. This publication is based on a previous Library of Parliament publication by Martha Butler.

66. It is important to note that "free, prior and informed consent" (FPIC) is not defined in either the *United Nations Declaration on the Rights of Indigenous Peoples* or the *United Nations Declaration on the Rights of Indigenous Peoples Act*, S.C. 2021, c. 14. The Government of Canada's *Backgrounder: United Nations Declaration on the Rights of Indigenous Peoples Act* contains the following explanation of FPIC:

> FPIC describes processes that are free from manipulation or coercion, informed by adequate and timely information, and occur sufficiently prior to a decision so that Indigenous rights and interests can be incorporated or addressed effectively as part of the decision making process – all as part of meaningfully aiming to secure the consent of affected Indigenous peoples.
>
> FPIC is about working together in partnership and respect. In many ways, it reflects the ideals behind the relationship with Indigenous peoples, by striving to achieve consensus as parties work together in good faith on decisions that impact Indigenous rights and interests. Despite what some have suggested, it is not about having a veto over government decision-making.

PRELIMINARY VERSION
UNEDITED

67. *Settlement Agreement Between Tataskweyak Cree Nation, Curve Lake First Nation, Neskantaga First Nation and Canada*, s. 9.03(2)(a).

68. Health Canada, *Guidelines for Canadian Drinking Water Quality – Summary Tables*, December 2025.

69. The *Wastewater Systems Effluent Regulations*, SOR/2012-139, under the *Fisheries Act*, R.S.C. 1985, c. F-14, define effluent as "wastewater that is deposited from a wastewater system."

70. *Wastewater Systems Effluent Regulations*, SOR/2012-139.

71. "Best efforts" is a term frequently used in contract law, and among other things, are characterized as going beyond a "reasonable effort," and "taking, in good faith, all reasonable steps to achieve the objective, carrying the process to its logical conclusion and leaving no stone unturned." See *Atmospheric Diving Systems Inc. V. International Hard Suits Inc.*, 1994 CanLII 16658 (BC SC), 1994 CarswellBC 158.

72. *Settlement Agreement Between Tataskweyak Cree Nation, Curve Lake First Nation, Neskantaga First Nation and Canada*, s. 9.03(2)(b).

73. *Ibid*., s. 9.03(2)(c).

74. *Ibid*., s. 9.02(2).

75. *Ibid*., s. 9.03(2)(d).

76. Pursuant to section 81 of the *Indian Act*, R.S.C. 1985, c. I-5, the council of a band can make by-laws in relation to a number of subjects.

PRELIMINARY VERSION
UNEDITED

APPENDIX A – TEXT VERSION OF FIGURE 1

Figure 1 – Drinking Water Advisories In First Nations Communities

- Drinking water advisories are issued to warn people not to drink water that may be unsafe or is known to be unsafe based on water quality test results. First Nations issue drinking water advisories in their communities for reasons like:
  - equipment failure;
  - poor filtration or disinfection; and
  - lack of trained staff to run the water system and ensure drinking water quality.
- Drinking water advisories can be considered short term if they are less than 1 year and long term if they last a year or longer.
- There are three types of drinking water advisories:
  - boil water advisories;
  - do not consume advisories; and
  - do not use advisories.
- Boil water advisories are issued when there are problems with the water treatment system or water test results show there are disease causing viruses, parasites or bacteria in the water. Under a boil water advisory, people should bring tap water to a rolling boil for a least one minute before drinking, using it for cooking or brushing their teeth.
- Do not consume advisories are issued when there are contaminants in the water system that cannot be removed by boiling the water. Under a do not consume advisory, water cannot be used for drinking or cooking, but adults can use the water for bathing.
- Do not use advisories are issued when people should not use the water for any reason because using the water poses a health risk and/or there are pollutants that can’t be removed by boiling the water.

[return to Figure 1]