

## **UBCIC Chiefs Council Resolutions, November 22<sup>nd</sup>-23rd, 2011**

### **Passed unless Noted as "Tabled"**

2011-51	Intervention in Nuu-chah-nulth Commercial Fishing Rights Litigation ( <i>Ahousaht et al. v. Canada</i> )
2011-52	Support for BC Collaborative Watershed Governance Accord
2011-53	Opposition to Proposed Regulatory Changes to the <i>Mines Act</i>
2011-54	Support for the Save the Fraser Declaration, the Coastal First Nations Tanker Ban, and the Indigenous Laws Banning Crude Oil Pipeline and Tanker Shipments through British Columbia
2011-55	Support for Qat'muk Declaration and Opposition to the Proposed Jumbo Glacier Resort
2011-56	[TABLED] Support and Funding for the First Nations Forestry Council
2011-57	Support of Industry Council for Aboriginal Business' Vision and Objectives
2011-58	Successful Aquaculture Governance
2011-59	Support for Protection of the Early Timed (Spring) Chinook
2011-60	The Perfect Storm: Constitutional Renewal
2011-61	[TABLED] The Indian Land Question and the Columbia River Treaty
2011-62	Consultation on First Nations Broadband Opportunities
2011-63	Support for Creation of the <i>Louise Mandell Legal Research Collection</i>
2011-64	UBCIC Specific Claims Research Program and Resource Centre
2011-65	Development of UBCIC Citizenship Paper
2011-66	UBCIC Meeting Schedule for 2012
2011-67	Resolution Committee Appointment

# OUR LAND IS OUR FUTURE

## UNION OF BRITISH COLUMBIA INDIAN CHIEFS

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### UNION OF B.C. INDIAN CHIEFS CHIEFS COUNCIL NOVEMBER 22<sup>ND</sup> - NOVEMBER 23<sup>RD</sup>, 2011 VANCOUVER, B.C.

#### Resolution no. 2011-51

#### **RE: Intervention in Nuu-chah-nulth Commercial Fishing Rights Litigation (*Ahousaht et al. v. Canada*)**

**WHEREAS** in a decision released on November 3, 2009, the B.C. Supreme Court held that five Nuu-chah-nulth Nations have Aboriginal Rights to fish and sell any species of fish available to them in their respective territories (the "BCSC Decision"). The BCSC Decision also held that Canada's regulatory regime relating to commercial fishing infringes the Nuu-chah-nulth Aboriginal Rights;

**WHEREAS** in a decision released May 18, 2011, the B.C. Court of Appeal (BCCA) substantially upheld the BCSC Decision (although excluded geoduck from the Nuu-chah-nulth rights);

**WHEREAS** Canada has applied to the Supreme Court of Canada (SCC) for leave to appeal the BCCA Decision;

**WHEREAS** the *United Nations Declaration on the Rights of Indigenous Peoples* states:

##### **Article 20**

1. Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.
2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.

##### **Article 26**

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.
3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned;

**WHEREAS** the BCSC and BCCA decisions are significant wins not only for the Nuu-chah-nulth nations but for all British Columbia First Nations who, for centuries, have maintained traditional economies through the trade and sale of fish. Thus, an appeal of the BCCA decision, if the SCC grants leave, is of great interest to British Columbia First Nations;

**WHEREAS** the decision of the SCC, if leave is granted, will shape the law on Aboriginal commercial fishing rights generally and intervention by First Nations on behalf of Nuu-chah-nulth Nations will be extremely useful to maintain Nuu-chah-nulth success.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council fully supports the B.C. Supreme Court and B.C. Court of Appeal decisions in *Ahousaht et al. v. Canada*;

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive to seek resources in order to apply for Intervenor Status in the event an appeal is granted by the Supreme Court of Canada.

**Moved:** Chief Les Sam, Tseshah First Nation  
**Seconded:** Chief Dalton Silver, Sumas First Nation  
**Disposition:** Carried  
**Date:** November 22<sup>nd</sup>, 2011

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UNION OF B.C. INDIAN CHIEFS  
CHIEFS COUNCIL  
NOVEMBER 22<sup>ND</sup> – NOVEMBER 23<sup>RD</sup>, 2011  
VANCOUVER, B.C.

**Resolution no. 2011-52**

## **RE: Support for BC Collaborative Watershed Governance Accord**

**WHEREAS** a Steering Committee comprised of representatives from First Nations, First Nations organizations, and federal, provincial, and local governments was established to facilitate information sharing and dialogue that would contribute to a collaborative watershed governance document, to be signed and implemented by the parties represented on the Steering Committee;

**WHEREAS** the Steering Committee, coordinated by the Fraser Basin Council, met three times in 2010 and drafted a BC Collaborative Watershed Governance Accord which is intended to provide guidance by outlining a more collaborative and inclusive way of doing business in watersheds and to bring about more inclusive, broadly based decisions that are cognizant and respectful of competing interests;

**WHEREAS** the *United Nations Declaration on the Rights of Indigenous Peoples* states:

**Article 25:** Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

**Article 32:**

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources;
2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources;
3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact;

**WHEREAS** the purpose of the BC Collaborative Watershed Governance Accord is to encourage agencies, governments, including First Nations, organizations and commercial interests throughout BC to work more collaboratively within watersheds by implementing agreed-upon guiding principles to attain enduring healthy, resilient watersheds for the benefit of those ecosystems, communities and the resource economies that depend on them;

**WHEREAS** an early draft of the BC Collaborative Watershed Governance Accord was tabled as information at the March 2011 UBCIC Chiefs Council meeting and further revisions were subsequently made;

**WHEREAS** Resolution 2011-32 “Support for the BC Collaborative Watershed Governance Accord” was tabled at the September 2011 UBCIC Annual General Assembly for further revision, and was subsequently amended.

**THEREFORE BE IT RESOLVED** that the UBCIC Chiefs Council supports the attached and revised BC Collaborative Watershed Governance Accord as an interim step to First Nations implementing their own consultation and engagement processes, and with full recognition of each Nation’s right to self-determination;

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive to sign the revised BC Collaborative Watershed Governance Accord on behalf of UBCIC, and circulate a final copy to the UBCIC Chiefs Council;

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs Council calls on the Fraser Basin Council to ensure that the BC Collaborative Watershed Governance Accord is implemented in full accordance with the *United Nations Declaration on the Rights of Indigenous Peoples*;

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs Council calls on the Fraser Basin Council to provide regular updates to the UBCIC Chiefs Council on implementation of the *BC Collaborative Watershed Governance Accord*.

**Moved:** Chief Dan Manuel, Upper Nicola Indian Band  
**Seconded:** Lori Wilson, Penticton Indian Band (Proxy)  
**Disposition:** Carried  
1 Abstention: Chief Byron Louis, Okanagan Indian Band  
**Date:** November 22, 2011

# **A Collaborative Watershed Governance<sup>1</sup> Accord for BC**

## **Purpose of the Accord**

*To encourage all orders of government (local, First Nations, provincial, and federal), organizations and commercial interests throughout BC, to work collaboratively to attain enduring healthy, resilient watersheds for the benefit of those ecosystems, communities, resource users and economies that depend on them.*

The signatories of this Accord will:

1. *Encourage interests in watersheds throughout the province to adopt these principles;*
2. *Encourage participation of those active in watersheds to engage collaboratively in watershed planning processes;*
3. *Encourage implementation of measures in support of collaborative watershed planning and management; and*
4. *Apply lessons learned from other models of collaborative watershed governance.*

## **Guiding Principles of Collaborative Watershed Governance**

The following inter-dependent principles will guide activities in watersheds:

1. Ecological, social, cultural and economic considerations are integral parts of decision making.
2. Best practices are to be employed to contribute to watershed sustainability<sup>2</sup> in new and existing obligations, jurisdictions and plans.
3. Effective collaborative watershed governance is to be carried out in a transparent, accountable and inclusive manner.
4. Effective working relationships are to be developed and maintained through open communication, trust and cooperation.
5. Decisions are to be based on the best available scientific information and First Nations traditional ecological knowledge, and with the goal of achieving watershed sustainability.
6. Authorizations to use water are to take into account the interests of present and future generations.
7. Effective watershed management is to be integrated with land-based resource objectives and activities on a watershed scale.
8. Watershed governance is to include shared responsibilities and enable those affected to have input to decision-making processes.

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<sup>1</sup> “Collaborative watershed governance” refers to a coordinated and collaborative decision making process that involves all interests within a watershed.

<sup>2</sup> “Watershed sustainability” refers to sustaining the natural attributes of watersheds for present and future generations.

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### UNION OF B.C. INDIAN CHIEFS CHIEFS COUNCIL NOVEMBER 22<sup>ND</sup> - NOVEMBER 23<sup>RD</sup>, 2011 VANCOUVER, B.C.

**Resolution no. 2011-53**

#### **RE: Opposition to Proposed Regulatory Changes to the *Mines Act***

**WHEREAS** Indigenous Peoples have the inherent right to self-determination including jurisdiction and the stewardship of their respective territories;

**WHEREAS** the Province of British Columbia has consistently introduced legislation and policies that ignore and/or infringe upon on Aboriginal Title, Rights and Treaty Rights without full consultation of First Nations in British Columbia;

**WHEREAS** on November 14, 2011, Attorney General Bond introduced Bill 19, the “Miscellaneous Statutes Amendment Act (No.3)” and if passed, the amendments will affect specific statutes including the *Mines Act*;

**WHEREAS** the *Mines Act* was developed without consultation with First Nations in British Columbia and the proposed changes in Bill 19 have also been developed without consultation with First Nations;

**WHEREAS** the *United Nations Declaration on the Rights of Indigenous Peoples* states:

**Article 26 (1):** Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.

**Article 32:**

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.
2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources;

**WHEREAS** the Province has stated that the amendments proposed in Bill 19 to the *Mines Act*, will:

...Give the Province the power to introduce regulations that would exempt some lower-risk activities from the permitting process. This approach will reduce the regulatory burden on industry, allow it to grow the mining sector, save individual company's time and money and, ultimately, help create jobs. Regulations will be developed in consultation with First Nations, industry and the public. Higher-risk activities will continue to require permitting under British Columbia's strict regulatory regime;

**WHEREAS** the proposed changes to the *Mines Act* in Bill 19 continue to deny the inherent and constitutionally protected Title, Rights and Treaty Rights of Indigenous Peoples by giving the Province more regulatory powers in determining whether or not a project is "lower-risk," and allowing the project to bypass the already flawed permitting process and the ability to determine when consultation with First Nations will be triggered;

**WHEREAS** the proposed changes to the *Mines Act* in Bill 19 will allow the Province to speed up the permitting process for projects that First Nations may oppose in their territories, including the eight, unnamed mines that the Province committed to opening in the BC Jobs Plan.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council reaffirms and asserts that as Indigenous Peoples we have the inherent right to self-determination to our respective territories;

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs Council strongly opposes the proposed regulatory changes to the *Mines Act* as set out in Bill 19;

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive to communicate opposition to the Provincial Government;

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs Council demands that the Provincial Government uphold its legal obligations to meaningfully consult with First Nations where there is potential of infringement on Aboriginal Title, Rights and Treaty Rights.

**Moved:** Chief Ko'waintco Michel, Nooaitch  
**Seconded:** Chief Marilyn Baptiste, Xeni Gwet'in First Nation  
**Disposition:** Carried  
**Date:** November 23, 2011



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**Resolution no. 2011-54**

**RE: Support for the Save the Fraser Declaration, the Coastal First Nations Tanker Ban, and the Indigenous laws Banning Crude Oil Pipeline and Tanker Shipments through British Columbia**

**WHEREAS** the Enbridge Northern Gateway Pipeline and tankers project, and the Kinder-Morgan Trans-Mountain oil pipeline and tanker expansion will expose Indigenous and non-Indigenous communities from the Pacific Coast across to Alberta to the risk of pipeline and supertanker oil spills;

**WHEREAS** both of these pipeline and tanker projects pose an unacceptable risk to the health, safety and livelihoods of First Nations throughout British Columbia, and will contribute to the negative environmental and health impacts experienced by Indigenous peoples downstream of the tar sands, and of all peoples throughout the world as a result of accelerating global climate change;

**WHEREAS** First Nations continue to exercise our laws and jurisdiction to protect our lands, our waters, our coasts and our rivers, as we have done for thousands of years and both the Save the Fraser Declaration and the Coastal First Nations Tanker Ban are grounded in our laws;

**WHEREAS** the UBCIC Chiefs Council passed Resolution 2010-11 to oppose the Enbridge Northern Gateway Pipeline Project.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council endorse the Coastal First Nations Tanker Ban and Save the Fraser Declaration that prohibit the transportation of tar sands crude oil by pipeline and tanker on the north coast, the south coast, and through the Fraser River watershed;

**THEREFORE BE IT FINALLY RESOLVED** that the UBCIC Chiefs Council urge the governments of Canada and British Columbia to respect the laws and authority of First Nations, and to protect the environment, fisheries, and the health and safety of all BC communities, by opposing and rejecting the proposed Enbridge Northern Gateway Pipelines and the Kinder-Morgan Trans Mountain pipeline and tanker expansion.

**Moved:** Bev Ketlo, Nadleh Whut'en (Proxy)  
**Seconded:** Chief John Jones, Old Massett First Nation  
**Disposition:** Carried  
**Date:** November 23<sup>rd</sup>, 2011

November 23, 2011

**2011-54**  
*Page 1 of 1*

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### UNION OF B.C. INDIAN CHIEFS CHIEFS COUNCIL NOVEMBER 22<sup>ND</sup> - NOVEMBER 23<sup>RD</sup>, 2011 VANCOUVER, B.C.

#### Resolution no. 2011-55

#### **RE: Support for Qat'muk Declaration and Opposition to the Proposed Jumbo Glacier Resort**

**WHEREAS** the Ktunaxa have lived in their territory since time immemorial and have a deep spiritual connection to the animal world and, in particular, to the grizzly bear;

**WHEREAS** Qat'muk is a very special place where the Grizzly Bear Spirit was born, goes to heal itself, and returns to the spirit world. The Grizzly Bear Spirit is an important source of guidance, strength, protection and spirituality for the Ktunaxa. Qat'muk's importance for the Grizzly Bear Spirit is inextricably linked with its importance for living grizzly bears now and in the future, and the Ktunaxa have a stewardship obligation and duty to the Grizzly Bear Spirit and Qat'muk;

**WHEREAS** Qat'muk includes the entirety of the Toby-Jumbo watershed and the uppermost parts of the South Fork Glacier Creek, Horsethief Creek and Farnham Creek watersheds, and is in the central part of the Purcell Mountains that include the area of the proposed Jumbo Glacier Resort;

**WHEREAS** the *United Nations Declaration on the Rights of Indigenous Peoples* supports the Ktunaxa Nation's right to: (a) manifest, practice, develop and teach their spiritual and religious traditions, customs, and ceremonies and to maintain, protect, and have access in privacy to their religious and cultural sites [Article 12]; and (b) maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters, and other resources and to uphold our responsibilities to future generations in this regard [Article 25];

**WHEREAS** the Ktunaxa Nation has been opposed to the Jumbo Glacier Resort since it was first proposed in 1991, based principally on the spiritual importance of the Qat'muk area for Ktunaxa people, but also derives from Ktunaxa concerns for the protection of wildlife populations (especially grizzly bears), biodiversity and water quality;

**WHEREAS** by Resolution 2010-03, the UBCIC Chiefs Council supports the right of a First Nation to protect their territory and the health of their community;

**WHEREAS** on November 15, 2010, the Ktunaxa Nation Council, on behalf of the Ktunaxa Nation, signed the Qat'muk Declaration, which sets out the Ktunaxa Nation's connection to Qat'muk, proclaims a framework for protection of the Qat'muk area, identifies Qat'muk Stewardship Principles and sets out the Ktunaxa Nation's intention to prepare a management plan in consultation with other governments and stakeholders;

**WHEREAS** the proposed Jumbo Glacier Resort received a provincial environmental certificate in 2005, and the final step is approval of a master development agreement, which the Minister of Forests, Lands, and Natural Resource Operations can make at any time.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council fully supports the Qat'muk Declaration, and the efforts of the Ktunaxa Nation to ensure that their Aboriginal Title and Rights are honoured and preserved;

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs Council fully supports the efforts of the Ktunaxa Nation to protect their lands in the Qat'muk area of profound cultural and spiritual value, and opposes development of the proposed Jumbo Glacier Resort;

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs Council calls on the Provincial Government of British Columbia to uphold the Qat'muk Declaration and the United Nations *Declaration on the Rights of Indigenous Peoples*, and reject the proposed Jumbo Glacier Resort;

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive and staff to work with the Ktunaxa Nation in their efforts to protect the Qat'muk area and oppose the proposed Jumbo Glacier Resort.

**Moved:** Chief Dalton Silver, Sumas First Nation  
**Seconded:** Terry Dorward-Seitcher, Tla-o-qui-aht First Nation (Proxy)  
**Disposition:** Carried  
**Date:** November 23<sup>rd</sup>, 2011

**UNION OF B.C. INDIAN CHIEFS  
CHIEFS COUNCIL  
NOVEMBER 22<sup>ND</sup> - NOVEMBER 23<sup>RD</sup>, 2011  
VANCOUVER, B.C**

**Resolution no. 2011-56**

**RE: Support and Funding for the First Nations Forestry Council**

**WHEREAS** the First Nations Forestry Council (FNFC) has been providing forestry-related services in support of First Nations in British Columbia for over five years;

**WHEREAS** the FNFC has a mandate to support First Nations in managing the mountain pine beetle epidemic (through the *BC First Nations Mountain Pine Beetle Action Plan*), promote forestry-related opportunities for First Nations, advocate on forestry matters on behalf of BC First Nations, provide effective communication on forestry issues, and work with governments and others to ensure that First Nations needs, values and principles are factored into forestry-related policy and program development;

**WHEREAS** the *United Nations Declaration on the Rights of Indigenous Peoples* provides:

**Article 26(1):** Indigenous peoples have the right to the lands, territories, waters and coastal seas and other resources which they have traditionally owned, occupied or otherwise used or acquired;

**Article 29(1):** Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination;

**Article 32(1):** Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources;

**WHEREAS** by Resolution 2009-60, the UBCIC Chiefs Council directed the UBCIC Executive to work with the FNFC in establishing a proposal for promotion of the idea that \$0.10 per cubic meter of harvested timber be paid into a fund for the promotion of First Nations forestry;

**WHEREAS** efforts to develop sustainable funding from the Province and Canada have not been successful, and recently funded forestry projects are only very specific projects of interest to the Federal and Provincial governments and not necessarily the priorities of our communities;

**WHEREAS** independent funding from our communities for a portion of the FNFC operations will allow the FNFC to carry out the priorities of our communities.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council fully supports the ongoing work of the First Nations Forestry Council (FNFC); and

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs Council directs the FNFC to establish and implement a FNFC levy of up to eighteen cents per cubic meter (\$0.18/m<sup>3</sup>) to be charged to First Nations forestry tenure holders and delivered to the FNFC for its ongoing operations.

**Moved:**

**Seconded:**

**Disposition:**   **TABLED**

**Date:**           **November 23<sup>rd</sup>, 2011**

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NOVEMBER 22<sup>ND</sup> - NOVEMBER 23<sup>RD</sup>, 2011  
VANCOUVER, B.C.

Resolution no. 2011-57

## RE: Support of Industry Council for Aboriginal Business' Vision and Objectives

**WHEREAS** the Industry Council for Aboriginal Business (ICAB) is a non-profit organization dedicated to providing value to its members through effective programming and by promoting mutual respect and understanding;

**WHEREAS** ICAB is dedicated to ensuring open communication with leadership in the development of initiatives that support economic development for First Nations communities and businesses;

**WHEREAS** the United Nations *Declaration on the Rights of Indigenous Peoples* provides:

**Article 21.1:** Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security;

**WHEREAS** ICAB's vision is to realize a vibrant British Columbia economy where Aboriginal and non-Aboriginal people prosper together;

**WHEREAS** ICAB has facilitated economic development partnerships between First Nations and industry for several years, and is seeking support to provide economic and capacity development services and programs to meet the specific and stated needs of First Nations communities and businesses;

**WHEREAS** ICAB seeks funding in order to implement the following programs:

- Research project to identify the need and demand for an Association that would support the specific capacity development needs of First Nations Economic Development Officers;
- *British Columbia Aboriginal Business Association* to provide business-development seminars and presentations, referrals and new contacts, procurement linkages to industry/business and activities that promote mutual support and networking among Aboriginal businesses;

- *Aboriginal Business Leader Exchange* to provide Aboriginal and non-Aboriginal youth, women and leaders opportunities to learn about each other's workplace, social and cultural environments as well as decision-making processes that will support relationship building and encourage on-going capacity-building at both the Aboriginal and corporate level.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council fully supports the vision of the Industry Council for Aboriginal Business (ICAB) to realize a vibrant economy where Aboriginal and non-Aboriginal people prosper together;

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs Council fully supports ICAB in seeking funding to implement: a research project to identify the need and demand for an Association to support the specific capacity development needs of First Nations Economic Development Officers; a British Columbia Aboriginal Business Association, and an Aboriginal Business Leader Exchange;

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs Council requests that ICAB provide an update of its progress to the UBCIC Chiefs Council within six months.

**Moved:** Chief Harold Aljam, Coldwater Indian Band  
**Seconded:** Chief Kevin Whitney, T'it'q'et  
**Disposition:** Carried  
**Date:** November 23<sup>rd</sup>, 2011



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### UNION OF B.C. INDIAN CHIEFS CHIEFS COUNCIL NOVEMBER 22<sup>ND</sup> – NOVEMBER 23<sup>RD</sup>, 2011 VANCOUVER, B.C.

**Resolution no. 2011-58**

#### **RE: Successful Aquaculture Governance**

**WHEREAS** we are sovereign Indigenous Nations with the right to protect and manage, and derive social, cultural and economic benefits from the wealth of our lands, waters and resources;

**WHEREAS** First Nations in British Columbia have constitutionally protected Title and Rights that have been affirmed by the Supreme Court of Canada and by international conventions and local and international treaties, including the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP), which Canada endorsed on November 12, 2010;

**WHEREAS** Articles 26, 27, 29, and 32 of the UNDRIP affirm the duty of States to consult with Indigenous peoples over their rightfully owned and occupied lands, territories, and resources, and acknowledge the Rights of Indigenous peoples to make decisions about the use of their lands, territories and resources;

**WHEREAS** First Nations acknowledge the interdependence we have with one another, and we respect that as First Nation peoples, we have the right to determine our level of involvement and perspectives on the aquaculture industry based on each of our community's needs, aspirations and priorities;

**WHEREAS** B.C. First Nations have the right to be fully informed and involved in any legislative, policy and/or decision-making process pertaining to the aquaculture industry as these actions have the potential to adversely impact on First Nations title and rights, and treaty rights. At a minimum, the honour of the Crown requires both the federal and provincial governments to minimize any infringement to title and rights, and to engage in appropriate consultation and accommodation processes;

**WHEREAS** by Resolutions 2009-35 and 2009-36, the UBCIC Chiefs Council mandated the B.C. Aquaculture Working Group to engage with the Department of Fisheries and Oceans to address and advocate for First Nations title and rights issues that have a bearing on the management and regulation of

the aquaculture industry, and the First Nations Summit and the B.C. Assembly of First Nations passed similar resolutions;

**WHEREAS** on November 2, 2011 the First Nations Fisheries Council and the B.C. Aquaculture Working Group co-hosted a meeting where B.C. First Nations came together to recommend potential structures and processes for integrated planning of aquaculture that link to existing First Nations governance processes in B.C. The outcomes of this meeting were subsequently discussed at the 2011 First Nations Fisheries Council Annual General Assembly.

**THEREFORE BE IT RESOLVED** that the UBCIC Chiefs Council hereby affirms the following principle statements for aquaculture, as endorsed by First Nations leaders and participants at the Aquaculture Meeting held on November 2, 2011 and discussed at the 2011 First Nations Fisheries Council Annual General Assembly:

- a. Both First Nations and the First Nations Fisheries Council require dedicated resources to establish a Tier One process. Through this Tier One process, First Nations will collectively develop common perspectives and discuss an appropriate mechanism for accountability and appointments to the Integrated Management of Aquaculture Plans (IMAP) steering committee, technical committees and any national processes associated with the Department of Fisheries and Oceans (DFO)'s National Aboriginal Engagement Initiative. New additional resources are required as current resources available to First Nations and the First Nations Fisheries Council (from programs such as Aboriginal Fishing Strategy and Aboriginal Aquatic Resource and Ocean Management Program) are already fully subscribed;
- b. First Nations will not tolerate a system in which their Aboriginal Title and Rights are subject to Tier 3 IMAP decision-making processes. Decisions that have the potential to impact the Title and Rights of First Nations must occur through a resourced government-to-government Tier 2 process. First Nations and the DFO must work collectively to define a Tier 2 process that upholds the Honour of the Crown and the duty to consult and accommodate;
- c. First Nations recommend two levels for engagement in Tier 3 IMAP processes within B.C. – a First Nations technical committee that support a First Nations caucus of the IMAP steering committee -
  - i. Aquaculture is a complex and highly technical industry. As such, we recommend establishing a First Nations technical committee to review information on behalf of First Nations and to be responsible for providing summary analysis to assist First Nations in decision-making processes across the province.
  - ii. As all aquaculture operations occur within the traditional territories of First Nations, First Nations require a minimum of 50% of the seats on the IMAP steering committee to ensure First Nation views and Title and Rights are adequately represented in the integrated planning structure for aquaculture.
  - iii. First Nations require sufficient resources in order to participant in these management processes;
- d. The DFO must establish a First Nation focused program and provide dedicated resources for First Nations to play a major role in the monitoring and compliance of this industry in their



respective territories. First Nations around the province have clearly articulated the need for increased involvement and proper designations of authority - which flow from our inherent Rights, traditional governance and protocols - for the monitoring of this industry and that industry self-monitoring is unacceptable;

- e. In the developmental stages, consistent staffing and training is necessary on the part of DFO in order to ensure continuity, predictability and the success of the BC Aquaculture Regulatory Program;

**THEREFORE BE IT FINALLY RESOLVED** that the UBCIC Chiefs Council directs the UBCIC Executive to work with the First Nations Leadership Council, the First Nations Fisheries Council and the B.C. Aquaculture Working Group to communicate the above endorsed statements for successful aquaculture governance to the DFO and to the Federal and Provincial governments, advocating for the engagement of First Nations at all scales in aquaculture management, regulation and decision-making.

**Moved:** Chief Fred Sampson, Siska First Nation  
**Seconded:** Chief Bob Chamberlin, Kwicksutaineuk/Ak-Kwa-Mish Tribes  
**Disposition:** Carried  
**Date:** November 23<sup>rd</sup>, 2011

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UNION OF B.C. INDIAN CHIEFS  
CHIEFS COUNCIL  
NOVEMBER 22<sup>ND</sup> - NOVEMBER 23<sup>RD</sup>, 2011  
VANCOUVER, B.C.

Resolution no. 2011-59

## RE: Support for Protection of the Early Timed (Spring) Chinook

**WHEREAS** as Indigenous Peoples, we reaffirm the wisdom and vision of our Peoples articulated in the *UBCIC Aboriginal Title and Rights Position Paper, 1978* which states:

*The Sovereignty of our Nations comes from the Creator. It is not granted by, nor subject to the approval of, any other Nation. As First Nations we have the Sovereign Right to jurisdiction and rule within our traditional territories. Our lands are a sacred gift. The land is provided for the continued use, benefit and enjoyment of our people, and it is our ultimate obligation to the Great Spirit to care for and protect it.*

**WHEREAS** Indigenous Nations will be challenged by Crown governments, or third party interests, as we continue to use, occupy and possess our Aboriginal Title territories and exercise our inherent jurisdiction. Over decades and centuries, the Crown governments have unjustifiably given out interests to third parties in all regions of Canada subject to Aboriginal Title. Forestry and fisheries are prominent examples of conflict between Aboriginal and non-Aboriginal peoples over resource allocation;

**WHEREAS** fishing must be understood and addressed in the context of Aboriginal Title and Rights;

**WHEREAS** the Early Timed Chinook (4<sub>2</sub> Spring Chinook) that return to the Nicola system: Coldwater River, Nicola River, Spius Creek systems and the Thompson system: Deadman River, Louis Creek, Nessett Creek and the Bonaparte River systems have been in drastic decline over the last five years; and

**WHEREAS** these stocks need to be re-built to sustainable numbers where benefits can be obtained by First Nations, the environment and by other “stakeholders”; and

**WHEREAS** the Department of Fisheries and Oceans Canada (DFO) does not have adequate data to support any non-Aboriginal fisheries that could impact these stocks of Spring Chinook, and by allowing non-Aboriginal fisheries that can impact these stocks, the government is thereby neglecting their fiduciary responsibility to both First Nations and the fish; and

**WHEREAS** the Government of Canada is also neglecting their responsibility to the surrounding ecosystem by continuing to allow fishing of these early stocks which play an important and interconnected role to the maintenance of the bio-diversity of the surrounding ecosystem, such as the very survival of the endangered Orca population which require an allocation of the Chinook run; and

**WHEREAS** the Supreme Court of Canada (*Sparrow*) ruled "...If, in a given year, conservation needs required a reduction in the number of fish to be caught such that the number equaled the number required for food by the Indians, then all the fish available after conservation would go to the Indians according to the constitutional nature of their fishing right. If, more realistically, there were still fish after the Indian food requirements were met, then the brunt of conservation measures would be borne by the practices of sport fishing and commercial fishing";

**WHEREAS** UBCIC Resolution 2008-18 calls for the UBCIC Chiefs Council to work with the BC Assembly of First Nations, the First Nations Summit and the First Nations Fisheries Council to compel the Minister of Fisheries and Oceans to exercise an allocation policy of conservation first, food, social and ceremonial second and to compel Auditor General of Canada to perform an audit on the management of pacific fisheries; and,

**WHEREAS** UBCIC Resolution 2008-19 calls for the UBCIC Chiefs Council to work with First Nations to conserve wild stocks, advocate and support recovery and restoration, and to share fairly food/social/ceremonial fish;

**WHEREAS** UBCIC Resolution 2010-02 called for a moratorium on fishing Early Timed Chinook (4 sub 2) in the spring of 2010 and called for DFO to stop all non-Aboriginal fisheries of these stocks until the stocks recovered;

**WHEREAS** in 2010 the Department of Fisheries and Oceans Canada allowed recreational fishing opportunities in the marine areas that impacted the Early Timed Chinook;

**WHEREAS** the First Nations from Vancouver Island, the Lower Fraser River and BC Interior, Treaty and non-Treaty, in unity stood on a moratorium on fishing Early Timed Chinook in 2010 and 2011 in order to protect the returning Early Timed Chinook.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council calls on the Department of Fisheries and Oceans (DFO) to uphold the federal fiduciary responsibility to both First Nations and the fish, and stop all non-Aboriginal fisheries that could affect these stocks until there is sufficient data available to manage these stocks sustainably; and

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs Council requests that the DFO acquires more data from the recreational fishers sector by making it mandatory for recreational fishers to submit marked Chinook; and

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive and staff to work with the First Nations Fisheries Council to ensure that the DFO funds First Nations fishing programs to obtain technical support to sustain the management of the Early Timed (spring) Chinook stocks; and

**THEREFORE BE IT FINALLY RESOLVED** that the UBCIC Chiefs Council encourages First Nations from the approach areas and Fraser River to cease fishing on these stocks for 2012 in order to encourage the recovery and restoration of the fish stock for future generations.

**Moved:** Kukpi7 Christian, Splatstin  
**Seconded:** Chief Dan Manuel, Upper Nicola Indian Band  
**Disposition:** Carried  
**Date:** November 23<sup>rd</sup>, 2011

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UNION OF B.C. INDIAN CHIEFS  
CHIEFS COUNCIL  
NOVEMBER 22<sup>ND</sup> - NOVEMBER 23<sup>RD</sup>, 2011  
VANCOUVER, B.C.

**Resolution no. 2011-60**

## **RE: The Perfect Storm: Completing Confederation**

**WHEREAS** Indigenous Nations were never conquered. Throughout years of European settlement and expansion in Canada, the Royal Proclamation of 1763 established a Nation to Nation status between our Nations and the Crown and expressed high principles of justice which governed Crown interaction with Indigenous Peoples. Our inherent rights to land and governance were recognized as legal rights which Crown governments were obligated to recognize and respect - Crown government's entitlement to use the resources from our territories was to be determined through treaty;

**WHEREAS** these principles of law contained in the Royal Proclamation, and affirmed by Indigenous Nations through the Treaty of Niagara, 1764, and found expression in the British North America (BNA) Act - the Royal Proclamation finds expression two centuries later in Section 25 of the Constitution Act;

**WHEREAS** in keeping with the Royal Proclamation, treaties were concluded across Canada and in parts of BC;

**WHEREAS** contrary to law - Canadian law, Indigenous law and international law, including the American *Declaration on the Rights of Man* and the *United Nations Declarations on the Rights of Indigenous Peoples* - Crown Governments have systemically denied Aboriginal Title, Rights and Treaty Rights, our laws and institutions. Denial has become embedded in Provincial and Federal legislation, and Crown government policies including the comprehensive claims policy (CCP) and the government negotiation mandates it brings to the negotiation of treaties and other agreements;

**WHEREAS** the denial policy has resulted in Indigenous Governments and our citizens, being deprived of basis human rights;

**WHEREAS** Indigenous Nations tried, without success to become included in the broad constitutional review in 1982 when the Constitution was patriated. Section 35 did not carry our consent. It was included when the Premiers thought that the word "existing" meant "extinguished";

**WHEREAS** the Courts have determined the opposite - and have further concluded that Aboriginal Title has not been extinguished in BC: that it has a jurisdictional and economic component and that jurisdiction is not exhaustively divided between the Crown Governments, and that our laws find expression in Section 35;

**WHEREAS** notwithstanding the Court's jurisprudence, the Crown Governments continues to deny Aboriginal Title, Rights and Treaty Rights, creating economic uncertainty in this Province and contributing to the deplorable social and economic conditions suffered by Indigenous Nations. The Courts have placed reconciliation at the heart of Aboriginal / Crown relations, but reconciliation has yet to occur;

**WHEREAS** Confederation remains incomplete because Indigenous Nations have been excluded from constitutional reform.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council supports engaging in an exercise of statesmanship and nation with Crown Governments to complete Confederation in accordance with the Principles reflected in the Royal Proclamation of 1763;

**THEREFORE BE IT FURTHER RESOLVED** that the UBCIC Chiefs Council will seek support, including financial support, at the First Nations Crown Gathering 2012 for internationally supervised discussions with the Federal Government and the Provinces to embark on this process of Constitutional renewal;

**THEREFORE BE IT FINALLY RESOLVED** that pending funding, the UBCIC Chiefs Council will work with like-minded organizations to develop an agenda for the tri-lateral negotiations, which includes developing a framework for reconciliation which offers balance and harmony between our Title and Rights and others, and determines how Indigenous Nations can manage our affairs with the independence necessary to achieve self determination, and also with honorable interdependence with the rest of Canada.

**Moved:** Kukpi7 Wayne Christian, Splotsin  
**Seconded:** Chief Fred Sampson, Siska First Nation  
**Disposition:** Carried  
**Date:** November 23<sup>rd</sup>, 2011

**UNION OF B.C. INDIAN CHIEFS  
CHIEFS COUNCIL  
NOVEMBER 22<sup>ND</sup> - NOVEMBER 23<sup>RD</sup>, 2011  
VANCOUVER, B.C.**

**Draft Resolution no. 2011-61**

**RE: The Indian Land Question and the Columbia River Treaty**

**WHEREAS** various Indian tribes, also known as “First Nations” in what is known today as British Columbia (B.C.), have never ceded their inherent and unextinguished Title and Rights to their lands, waters and resources as relates to the *Royal Proclamation of 1763* which established Lands Reserved for the Indians;

**WHEREAS** various First Nations people in what is known today as B.C., enjoy *Jay Treaty* (1794) Rights to freely cross by land or inland navigation, the United States/Canada Border and to carry on with their trade and commerce with other First Nations people in their usual customs;

**WHEREAS** the *Treaty of Peace* made at Ghent (1814 ratified in 1815), affirmed that all the possessions, rights, and privileges enjoyed or entitled to the First Nations shall continue;

**WHEREAS** various First Nations in what is known today as B.C., have never entered into any treaty or convention as it relates to the *Non-intercourse Act 1834* concerning such Lands Reserved for the Indians, which confirms the inalienability of Aboriginal Title and/or Lands Reserved for the Indians;

**WHEREAS** the *Constitution Act, 1867* established a division of powers including Federal jurisdiction over Indians, and Lands reserved for the Indians; Navigation and Shipping; and Inland Fisheries;

**WHEREAS** various First Nations in B.C. raised the Land Question as early as 1906 (if not sooner) with the British Crown, King Edward VII and later in 1910 with the Canadian Prime Minister, Sir Wilfred Laurier;

**WHEREAS** the United States Supreme Court in *Winter v. United States* (1908) established that when an Indian reservation is established that there is an implied reservation of water rights;

**WHEREAS** the International Joint Commission (IJC) was established in 1909 by the *Boundary Waters Treaty* with a mandate to settle all questions pending between the US and Canada involving the rights, obligations, or interests of either ... or to the inhabitants ... along their common frontier, and to make provision for the adjustment and settlement of all such questions as may arise;

**WHEREAS** the Supreme Court of Canada in *Burrard Power Co. v. R* (1910) stated, “In no sense can it be said that the land and the water were universally and uniformly supposed to depend upon separate rights of or in property”; thus, affirming the Indian water rights principles as set out in the Winter Rights doctrine;

**WHEREAS** the Supreme Court of Canada quoted Lord Watson in *Burrard Power Co. v. R.* (1910) in relation to the division of powers whereas Canada “... should be vested with such of these powers, property and revenues as were necessary for the due performance of its constitutional functions ...”;

**WHEREAS** certain First Nations in B.C., namely the Ktunaxa, Secwepemc, and Okanagan (Canadian Columbia River First Nations), have inherent Aboriginal Title and Rights in the Columbia Basin, including south of the 49<sup>th</sup> Parallel, also known as the Canada/USA Border;

**WHEREAS** the Canadian Columbia River First Nations have incidental Treaty and Aboriginal Rights such as salmon harvesting and trade at Kettle Falls, Washington;

**WHEREAS** the International Joint Commission (IJC) approved by Order, the construction of the Grand Coulee Dam (1941) which has caused the elimination of salmon and steelhead from passing beyond said dam including Kettle Falls and into B.C.;

**WHEREAS** the loss of salmon on the Columbia River basin as well as the impact of the dams, has unjustifiably infringed their Aboriginal, statutory and treaty rights, and has deprived the Columbia River First Nations of their integrity as distinct peoples, or of their cultural values or ethnic identities;

**WHEREAS** the Columbia River Treaty (CRT) (1964) is an international agreement between Canada and the United States to coordinate flood control and optimize hydroelectric power generation on both sides of the border which is *ultra vires* the Province of British Columbia, as per specific exclusions in *The Constitution Act, 1867* s. 92(10), Local Works and Undertakings;

**WHEREAS** the Canada – British Columbia Agreement (1964) which gives Federal control and revenues to the Province, is an absolute failure of the Federal Crown to exercise its fiduciary obligations and/or statutory powers;

**WHEREAS** both the United States of America and the Canadian governments have advised the Canadian Columbia River First Nations in 2006 that the IJC did not have jurisdiction over First Nations concerns dealing with damage caused by the dam including the elimination of salmon and steelhead runs to British Columbia in respect of the 1941 IJC Order;

**WHEREAS** the year 2024 is the earliest date either Canada or the U.S. may unilaterally terminate the current Columbia River Treaty (CRT), provided a minimum of 10 years' notice is given, and considering the importance of the issues, and the approaching date of 2014, both countries are now conducting studies and exploring future options for the CRT and, as a result the duty to consult is now triggered;

**WHEREAS** the *United Nations Declaration on the Rights of Indigenous Peoples*, provides in Article 37(1) that “Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements”;

**WHEREAS** the considerations in this Resolution have the ability to have a direct impact upon all First Nations in British Columbia and elsewhere as it pertains to Land Reserved for Indians; Water Rights, *inter alia*.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council acknowledges that all of the relevant concerns of the Canadian Columbia River First Nations including Lands Reserved for the Indians, Water Rights, Compensation for Past Infringement, and Damages, should be reconciled within the context of the Columbia River Treaty;

**THEREFORE BE IT RESOLVED** that the UBCIC Chiefs Council directs the UBCIC Executive to take the following actions:

- 1) Provide written notice to Canada demanding that the Federal Government cause a Supreme Court of Canada, Judicial Review, forthwith, based on the standard of correctness, in respect of all of the constitutional issues in relation to, historic treaties, Canadian and US statutes, the Columbia River First Nations, the Columbia River Treaty, the loss of salmon and steelhead above the Grand Coulee Dam, and challenging the 2006 decision of the US and Canadian governments that the International Joint Commission did not have jurisdiction;

- 2) Demand that the Federal Government institute an immediate moratorium or writ of prohibition on the Canada – British Columbia Agreement;
- 3) Demand that the Federal Government provide relief by ordering an injunction preventing the Province of British Columbia from further participating in negotiations or further benefitting from the Columbia River Treaty and that all future downstream benefits are forthwith deposited into a non-taxable, interest-bearing, trust account for the benefit of the Canadian Columbia River First Nations or in the alternative divided evenly into three separate trust accounts on behalf of the Ktunaxa, Secwepemc, and Okanagan First Nations respectively until reconciled with the free prior informed consent of the First Nations;
- 4) Demand that the Federal Government provide relief by way of ordering an injunction which prevents Canada and/or British Columbia from providing ten-years' notice as identified within the Columbia River Treaty until a final reconciliatory decision is made with the free prior informed consent of the Canadian Columbia River First Nations;
- 5) Demand that the Federal Government provide relief by way of ordering a Writ of Quo Warrantor to oust BC Hydro from electrical generating and transmission operations within the Columbia Basin in British Columbia and that a declaration is made attesting that the assets in relation to the Columbia River Treaty situated in B.C. are the rightful property of the Canadian Columbia River First Nations;
- 6) Demand that the Federal Government provide relief by way of ordering a Writ of Mandamus for the Minister of Aboriginal Affairs and Northern Affairs Canada to perform its mandatory fiduciary obligations, to uphold s.35 Aboriginal rights, and to eliminate entirely, its extinguishment policy;
- 7) Demand that the Federal Government conduct a thorough valuation of damages on infringements to the Canadian Columbia River First Nations' Aboriginal, treaty, and equitable, statutory rights on both sides of the US – Canada border, as well as all of the downstream benefits and revenues as a result of the implementation of the Columbia River Treaty through such company as Price Waterhouse Coopers or other reputable organization capable of performing such work;
- 8) Demand that the Federal Government provide Declaratory Relief that all unceded lands are Lands Reserved for the Indians as per s. 91(24) *The Constitution Act*, 1867 (UK), 30 & 31 Victoria, c 3, which includes the expanded Winter's Rights;

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive to deliver this resolution to the Federal Government, which will provide adequate notice of existing Aboriginal Rights, Treaty Rights and Statutory Rights so as to implement consultation and accommodation in respect of the Columbia River Treaty, *inter alia*;

**THEREFORE BE IT FINALLY RESOLVED** that the UBCIC Chiefs Council directs the UBCIC Executive, in accordance with Article 39 of the *United Nations Declaration on the Rights of Indigenous Peoples*, to lobby the Federal Government to provide the Canadian Columbia River First Nations with three million dollars per annum in order to fully participate in the Columbia River Treaty judicial reference, discussions, negotiations or otherwise, as they unfold and until finally conclude with the free prior informed consent of the Canadian Columbia River First Nations.

**Moved:** Chief Wayne Christian, Splatshin  
**Seconded:** Chief Fred Sampson, Siska First Nation  
**Disposition:** TABLED  
**Date:** November 23<sup>rd</sup>, 2011



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UNION OF B.C. INDIAN CHIEFS  
CHIEFS COUNCIL  
NOVEMBER 22<sup>ND</sup> – NOVEMBER 23<sup>RD</sup>, 2011  
VANCOUVER, B.C.

**Resolution no. 2011-62**

**RE: Consultation on First Nations Broadband Opportunities**

**WHEREAS** Indigenous Nations in BC retain inherent Title and Rights over their territories;

**WHEREAS** BC has committed to bridging the digital divide but far too many rural and remote First Nation communities still lack broadband connectivity;

**WHEREAS** in March of 2008, BC granted \$22.5 million to the All Nations Trust Company (ANTCO) to bridge the Digital Divide for First Nations without First Nations consultation;

**WHEREAS** in November of 2008, BC transferred an additional \$18.3 million to ANTCO without First Nations consultation;

**WHEREAS** in 2010, Indian and Northern Affairs Canada (now Aboriginal Affairs and Northern Development Canada) awarded an additional \$8 million to ANTCO from the First Nations Infrastructure fund, without consultation; and

**WHEREAS** ANTCO has thus far received \$48.8 million in government funding on behalf of First Nations in BC without substantial input from First Nations Leadership;

**WHEREAS** the *United Nations Declaration on the Rights of Indigenous Peoples* states:

**Article 19:** States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them;

**WHEREAS** no attempt has been made to consult with First Nations on how the allocated connectivity funds could provide economic opportunities to First Nations such as developing telecommunications services;

**WHEREAS** the Supreme Court of Canada holds that governments have a duty to consult First Nations in decisions that may adversely affect Aboriginal Title and Rights; and

**WHEREAS** the authority and jurisdiction of First Nations to tax telecommunications equipment and facilities, including fibre optic cables, has been recognized in Canadian law; and

**WHEREAS** any decisions that award economic opportunities to third parties operating in First Nations territories, while excluding First Nations, will have far-reaching and long-lasting adverse effects on the sustainability of First Nations economies and the future health of their communities;

**WHEREAS** BC's failure to consult First Nations on how money targeted for connectivity should be allocated has prevented First Nations from exercising their inherent Rights to manage their territories and to build economic opportunities in ways that preserves culture and enhances quality of life for their citizens.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council calls upon the governments of BC and Canada to properly consult with First Nations on the expansion of broadband connectivity through, across and into First Nation territories and then accommodate the inherent Rights of those First Nations that have been infringed; and

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs Council calls upon the governments of BC and Canada to ensure that First Nations are not denied access to economic opportunities from the expansion of connectivity;

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs Council calls upon the governments of BC and Canada to ensure that First Nations have immediate, unfettered access to the Technology Opportunity Fund, in the amount of \$50 million, that will assist First Nations in moving toward self-sufficiency, prosperity and health through the effective use of technology.

**Moved:** Kukpi7 Wayne Christian, Splatsin  
**Seconded:** Chief Kevin Whitney, T'it'qet  
**Disposition:** Carried  
**Date:** November 23<sup>rd</sup>, 2011

## **SUBJECT**

- Failure of BC to consult First Nations on how money targeted for connectivity should be allocated has prevented First Nations from exercising their Inherent Rights to manage their territories and to build economic opportunities in ways that preserves culture and enhances quality of life for their citizens.

## **BACKGROUND AND PURPOSE TO RESOLUTION**

BC has taken a 'Winner Take All' approach to providing telecommunication services in the province and continues to work with a single vendor.

(see [http://www.gov.bc.ca/premier/technology\\_council/reports.html](http://www.gov.bc.ca/premier/technology_council/reports.html)).

With no consultation with First Nations Leadership:

- In the spring of 2008 BC granted \$22.5m unconditionally to the All Nations Trust Company (ANTCO) to address the digital divide for First Nations in BC.
- In November 2008 BC granted unconditionally to ANTCO an additional \$18.3 m for the same purpose. Of that, \$5m was allocated to capacity building.
- ANTCO immediately began negotiations with Telus on a master construction services agreement to provide connectivity all BC First Nations.
- In December 2009, ANTCO signed a \$3 million agreement with NorthWestel Inc. to provide high-speed Internet to Iskut, Dease Lake and Telegraph Creek .
- In May 2010, ANTCO negotiated a \$23 million agreement with Telus to connect 55 First Nation communities with either fibre or wireless connections within 4 years.
- Sometime in 2010, ANTCO was awarded an additional \$8 million from the INAC First Nations Infrastructure Fund that would flow from 2011 to 2013
- Telus projects that several communities will be connected this year.
- On June 29 of this year, BC gave Notice of Intent to award a 10 year, \$1 billion contract to Telus for a broad range of telecommunications services to the BC government that also includes aspects of health, education, public safety, economic development, smart metering, payroll and HR shared services. In exchange for this contract, Telus is committed to maintaining connectivity for all communities ;providing one full-time position responsible for training, communication, and supporting community initiatives and local ISPs (not specifically First Nations); plus expanding cellular coverage along primary and secondary highways.

All of these actions, decisions, agreements and contracts were reached without full and proper consultation with the First Nations they purport to benefit.

- The Maori have advanced claims that spectrum is natural resource. Their rights have been acknowledged and they are now managing and benefitting from those telecom resources. They have been successful in having spectrum set aside for their benefit and are continuing to advance their goals. Their success can support our claims.
- First Nation jurisdiction over fibre optic cables has already been recognized in the Property Assessment and Taxation (Railway Right-of-Way) Regulations whereby the authority to tax fibre optic cables is established. Any First Nation can choose to implement a Taxation Bylaw to benefit from the fibre on their lands.

## **THE NEED FOR A RESOLUTION AND ACTION REQUIRED.**

- The Inherent Rights of First Nations include every aspect of the territories, whether above or below the ground, visible or invisible. This includes telecommunications/spectrum.

**ACTION REQUIRED:**

- The Union of BC Indian Chiefs in Assembly call upon BC to fully and properly consult with First Nations on the planned rollout of broadband infrastructure through, across and into First Nations territories and also to accommodate the Inherent Rights of those First Nations that have been infringed.
- The Union of BC Indian Chiefs in Assembly call upon the governments of BC and Canada to uphold the honour of the crown and ensure that the Inherent Rights First Nation are fully and properly accommodated in these matters that will impact on future health and prosperity of our communities.
- The Union of BC Indian Chiefs in Assembly call upon the governments of BC and Canada to create a Technology Opportunity Fund in the amount of \$50 million that will assist First Nations to move toward self-sufficiency, prosperity and health through the effective use of technology.

**WHAT IMPACT WILL THIS RESOLUTION HAVE ON OTHER FIRST NATIONS?**

- The loss of jurisdiction over telecommunications and related infrastructure will severely limit future opportunities for First Nations. Rather than being owners, operators and providers of businesses and services we will be forced into the role of customers and buyers of resources located in our territories. Our economic future will depend upon our ability to compete in the global marketplace with 21<sup>st</sup> century skills and opportunities. Every First Nation in BC needs to benefit from this infrastructure and to use it as an economic development opportunity.

**IMPLEMENTATION OF RESOLUTION****Immediate**

- The Union of BC Indian Chiefs Executive send notice of this Resolution to the relevant provincial ministers and request meetings to discuss the implications of their actions.

**Short term**

- The Union of BC Indian Chiefs Executive initiate research to substantiate the validity of the arguments put forward here today and to evaluate the strength of the claim.

**Long term**

- The Union of BC Indian Chiefs Executive engage the relevant partners and allies in developing a strategic approach to resolving these important issues that have a major impact on the future health and prosperity of our communities.

**Ongoing**

First Nations move towards forming a Telecommunications Cooperative in BC.

**Resources required**

- Legal resources to determine the strength of claim to rights to telecommunications/spectrum
- Coordinate a meeting of relevant partners and allies to form a strategy to carry forward from here.
- Time is of the essence as decisions have already been made, contracts have been signed, funds have been allocated and work is already under way.

# OUR LAND IS OUR FUTURE

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UNION OF B.C. INDIAN CHIEFS  
CHIEFS COUNCIL  
NOVEMBER 22<sup>ND</sup> – NOVEMBER 23<sup>RD</sup>, 2011  
VANCOUVER, B.C.

Resolution no. 2011-63

## RE: Support for Creation of the *Louise Mandell Legal Research Collection*

**WHEREAS** Louise Mandell, Q.C., devoted her professional life to the advancement of Indigenous Title, Rights and Treaty Rights, and actively supported the Union of BC Indian Chiefs (UBCIC) since its inception;

**WHEREAS** under the presidency and direction of Grand Chief George Manuel, Louise Mandell, Leslie Pinder and Clarine Ostrove acted as in-house legal counsel for the UBCIC on actions such as for the commencement of the lawsuit to oppose the patriation of the Canadian Constitution in 1981 and the historic "Constitution Express";

**WHEREAS** following a distinguished career of landmark court decisions like *Guerin v. the Queen*, *Regina v. Sparrow*, *Pasco v. C.N.R. Co.*, *Regina v. Van der Peet*, *Delgamuukw v. British Columbia*, *Haida Nation et al v. British Columbia (Minister of Forests)*, and *Regina v. Morris & Olsen*, Louise Mandell retired from her legal practice in June 2011;

**WHEREAS** in recognition of Louise Mandell's tireless efforts on behalf of Indigenous Peoples, the UBCIC Executive pledged to create the *Louise Mandell Legal Research Collection*, a unique legal library collection that is a tangible reflection of her impact on UBCIC and Indigenous law;

**WHEREAS** the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) provides in Article 5 that "Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions" and in Article 14(1) that "Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning";

**WHEREAS** Resolutions 2008-44 and 2010-57 mandate UBCIC to provide community outreach, education and capacity building by way of creating access to relevant research resources, and Resolution

2009-46 supports the efforts of the Nesika Cultural and Heritage Society (“Nesika”) to work on projects of community education and capacity building.

**THEREFORE BE IT RESOLVED** the UBCIC Chief Council sincerely acknowledges the many ongoing contributions of Louise Mandell and its appreciation to her family for supporting her all this time;

**THEREFORE BE IT FURTHER RESOLVED** as an expression of appreciation the UBCIC Chiefs Council fully supports the creation of the *Louise Mandell Legal Research Collection* as part of the UBCIC Resource Centre; and

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive and staff to work in partnership with the Nesika Cultural and Heritage Society and other like-minded organizations to seek funding to create and maintain the *Louise Mandell Legal Research Collection*.

**Moved:** Chief Dalton Silver, Sumas First Nation  
**Seconded:** Chief Dan Manuel, Upper Nicola Indian Band  
**Disposition:** Carried  
**Date:** November 23<sup>rd</sup>, 2011

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UNION OF B.C. INDIAN CHIEFS  
CHIEFS COUNCIL  
NOVEMBER 22<sup>ND</sup> - NOVEMBER 23<sup>RD</sup>, 2011  
VANCOUVER, B.C.

**Resolution no. 2011-64**

**RE: UBCIC Specific Claims Research Program and Resource Centre**

**WHEREAS** the Union of BC Indian Chiefs (UBCIC) Specific Claims Research Program is one of a number of Claims Research Associations across Canada;

**WHEREAS** the mission of the UBCIC Specific Claims Research Program is to promote research excellence and support land rights research education in British Columbia's Aboriginal communities and to encourage high standards in claims preparation and land rights research;

**WHEREAS** the UBCIC Research Department seeks support, partnerships and funding to undertake community outreach and education endeavors;

**WHEREAS** the UBCIC Specific Claims Research Program has been operating since the early 1970s conducting band-directed research, technical studies and legal analysis for First Nations communities throughout BC;

**WHEREAS** the UBCIC Specific Claims Research Program provide its services at no cost to Nations and carries them out with a continuity of expertise;

**WHEREAS** the UBCIC Specific Claims Research Program is committed to providing community outreach in the form of regular workshops, conferences, research assistance, facilitating access to materials, information sharing, updates concerning federal and provincial legislation and access procedures, publishing manuals and other activities as communities request; and

**WHEREAS** the UBCIC Resource Centre is an integral component of the UBCIC Specific Claims Research Program both in terms of the technical work of UBCIC Research staff and in terms of fulfilling our community outreach mandate.

**THEREFORE BE IT RESOLVED** that the UBCIC Chiefs Council fully supports the continued work of the UBCIC Specific Claims Research Program and the UBCIC Resource Centre.

**Moved:** Chief Dan Manuel, Upper Nicola Indian Band  
**Seconded:** Chief Ko'waintco Michel, Nooaitch Indian Band  
**Disposition:** Carried  
**Date:** November 23<sup>rd</sup>, 2011

November 23, 2011

**2011-64**  
Page 1 of 1



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UNION OF B.C. INDIAN CHIEFS  
CHIEFS COUNCIL  
NOVEMBER 22<sup>ND</sup> - NOVEMBER 23<sup>RD</sup>, 2011  
VANCOUVER, B.C.

**Resolution no. 2011-65**

## **RE: Development of UBCIC Citizenship Paper**

**WHEREAS** our ability as Indigenous Peoples to define our own citizenship is key to our expression of sovereignty and nationhood;

**WHEREAS** the United Nations *Declaration on the Rights of Indigenous Peoples*, ratified by Canada on November 12, 2010, directs an approach that recognizes Indigenous Peoples' collective and ancestral rights and responsibilities to determine our own identity and citizenship flowing from our own laws:

- **Article 8:** Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture....States shall provide effective mechanisms for prevention of, and redress for...Any form of forced assimilation or integration...
- **Article 9:** Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right;

**WHEREAS** by Resolution 2011-13, the UBCIC Chiefs Council directed the UBCIC Executive and the UBCIC Bill C-31 Working Group to participate in Aboriginal Affairs and Northern Development's Exploratory Process on First Nations Citizenship, Band Registration, and Membership ("Exploratory Process") by holding regional, Nation-based dialogue sessions in accordance with a specific set of key principles;

**WHEREAS** as part of the Exploratory Process, the UBCIC Bill C-31 Working Group produced a rolling draft position paper on citizenship that incorporated historical context and considerations of financial impacts, as well as incorporated feedback from participants who took part in the regional dialogue sessions;



**WHEREAS** the draft position paper is called “We Stand on the Shoulders of our Ancestors: Decolonizing Indigenous Citizenship”, and was presented to the UBCIC Chiefs Council for further feedback on November 22, 2011;

**WHEREAS** the Chair called for volunteers from the floor to participate in a Working Group to further develop the draft position paper on citizenship.

**THEREFORE BE IT RESOLVED** that the UBCIC Chiefs Council appoints the following volunteers to work with the UBCIC Executive, UBCIC staff and the UBCIC Bill C-31 Working Group on the “UBCIC Citizenship Paper Working Group”:

- Chief Judy Wilson, Neskonlith Indian Band
- Chief Ko’waintco Michel, Nooaitch Indian Band
- Coola Louis, UBCIC Women’s Representative
- Councillor Samantha Etzel, Tsawout First Nation

**THEREFORE BE IT FINALLY RESOLVED** that the UBCIC Chiefs Council directs the UBCIC Citizenship Paper Working Group to:

- 1) Separate the draft UBCIC citizenship paper into two parts, with the first part addressing the continued impacts of the *Indian Act*, and the second part addressing how First Nations can develop their own citizenship laws;
- 2) Circulate the revised draft citizenship paper to the UBCIC Chiefs Council for review and comment in advance of the UBCIC Chiefs Council on February 22-23, 2012;
- 3) Bring a final draft citizenship paper to the UBCIC Chiefs Council on February 22-23, 2012 for consideration and endorsement.

**Moved:** Chief Byron Louis, Okanagan Indian Band

**Seconded:** Kukpi7 Wayne Christian, Splatshin

**Disposition:** Carried

**Date:** November 23<sup>rd</sup>, 2011

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### UNION OF B.C. INDIAN CHIEFS CHIEFS COUNCIL NOVEMBER 22<sup>ND</sup> - NOVEMBER 23<sup>RD</sup>, 2011 VANCOUVER, B.C.

**Resolution no. 2011-66**

#### **Re: UBCIC Meeting Schedule for 2012**

**WHEREAS** the Union of BC Indian Chiefs' (UBCIC) Annual General Assembly and Chiefs Council meetings constitute the primary mechanisms through which the member communities are informed of new legislation, policies and initiatives;

**WHEREAS** the UBCIC Annual General Assembly and Chiefs Council meetings are the mechanisms by which UBCIC Executive and staff receive ongoing mandates and direction from UBCIC members;

**WHEREAS** the UBCIC will host one (1) Annual General Assembly and three (3) Chiefs Council meetings in the 2012 calendar year.

**THEREFORE BE IT RESOLVED** that the UBCIC Chiefs Council has reviewed and commits the following as tentative dates:

- February 22-23
- May 30-31
- September 12-14 (Annual General Assembly)
- November 28-29

**THEREFORE BE IT FINALLY RESOLVED** that the UBCIC staff will confirm dates, locations and draft agendas, and provide notice to the UBCIC Chiefs Council.

**Moved:** Chief Geronimo Squinas, Lhtako Dene Nation  
**Seconded:** Chief Byron Louis, Okanagan Indian Band  
**Disposition:** Carried  
**Date:** November 23<sup>rd</sup>, 2011

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### UNION OF B.C. INDIAN CHIEFS CHIEFS COUNCIL NOVEMBER 22-23<sup>RD</sup>, 2011 VANCOUVER, B.C.

**Resolution no. 2011-67**

#### **RE: Appointment to UBCIC Resolutions Committee**

**WHEREAS** the Union of BC Indian Chiefs' By-Laws state that:

XI(a): Prior to the end of each meeting, the Chiefs Council or Chiefs-in-Assembly shall appoint a Resolutions Committee comprised of no less than three and no more than five Full or Active Members who will be responsible with the Executive Committee and UBCIC staff for receiving and reviewing resolutions to be presented at the next Chiefs Council, AGA, or Special General Assembly. If a new Resolutions Committee is not appointed prior to the next meeting, the current Resolutions Committee will continue to sit;

**WHEREAS** by Resolution 2011-50, the UBCIC Chiefs-in-Assembly appointed three members to the Resolutions Committee;

1. Chief Coreen Child, Kwakiutl First Nation
2. Chief Wayne Christian, Splatshin
3. Chief Donna Gallinger, Nicomen Indian Band

**WHEREAS** the Kwakiutl Nation elected Rupert Wilson as Chief, and as such, Coreen Child resigned from the UBCIC Resolutions Committee on November 22, 2011;

**WHEREAS** the UBCIC Chiefs Council directed that the Chair of the Chiefs Council call for nominations from the floor to participate in the UBCIC Resolutions Committee and replace Coreen Child.

**THEREFORE BE IT RESOLVED** that the UBCIC Chiefs Council hereby appoints the following members to sit on the UBCIC Resolutions Committee:

1. Chief Dan Manuel
2. Chief Wayne Christian, Splatshin
3. Chief Donna Gallinger, Nicomen Indian Band

**Moved:** Chief Ko'waintco Michel, Nooaitch Indian Band

**Seconded:** Chief Fred Sampson, Siska First Nation

**Disposition:** Carried

**Date:** November 23<sup>rd</sup>, 2011

**November 23, 2011**

**2011-67**  
*Page 1 of 1*