

# OUR LAND IS OUR FUTURE

## UNION OF BRITISH COLUMBIA INDIAN CHIEFS

FOUNDING HEAD OFFICE  
209 - 345 Yellowhead Highway  
Kamloops, B.C. V2H 1H1  
Tel: 250-828-9746  
Fax: 250-828-0319



VANCOUVER OFFICE  
5th Floor, 342 Water Street  
Vancouver, B.C. V6B 1B6  
Tel: 604-684-0231  
Fax: 604-684-5726  
1-800-793-9701  
Email: [ubcic@ubcic.bc.ca](mailto:ubcic@ubcic.bc.ca)  
Web: [www.ubcic.bc.ca](http://www.ubcic.bc.ca)

### **Resolutions from UBCIC Chiefs Council, May 30<sup>th</sup>-31<sup>st</sup>, 2012**

- 2012-18 Endorsement of UBCIC Citizenship Position Paper
- 2012-19 Continued Advocacy for Fisheries and Aquaculture
- 2012-20 Updated BC First Nations Mining Policy
- 2012-21 Opposition to Bill C-38, Federal Omnibus Budget Bill
- 2012-22 UBCIC Intervention in Neskonlith Appeal Regarding Application of the Constitutional Duty to Consult to Municipalities
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- 2012-30 Support for Hesquiaht to Reverse Injustice
- 2012-31 Support for Coordinated Legal Strategy to Stop Enbridge Pipeline Project

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UNION OF B.C. INDIAN CHIEFS  
CHIEFS COUNCIL  
MAY 30-31<sup>ST</sup>, 2012  
RICHMOND, B.C.

**Resolution no. 2012-18**

## **RE: Endorsement of UBCIC Citizenship Position Paper**

**WHEREAS** our ability as Indigenous Peoples to define our own citizenship is key to our 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 position paper was first presented to the UBCIC Chiefs Council for consideration, amendment and endorsement on November 22, 2011;

**WHEREAS** by Resolution 2011-65, the UBCIC Chiefs Council directed a “UBCIC Citizenship Paper Working Group” be struck to review and revise the position paper and separate the draft 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 citizen laws;

**WHEREAS** the revised position paper was named “Recovery and Renewal-Reclaiming Indigenous Citizenship,” and was presented to the UBCIC Chiefs Council for consideration and amendment on February 24<sup>th</sup>, with further changes directed by the UBCIC Chiefs Council.

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs Council directs the UBCIC Bill C-31 Working Group and the UBCIC Executive to continue seeking resources in order to implement the recommendations found in “Recovery and Renewal – Reclaiming Indigenous Citizenship”;

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive and staff to circulate the position paper to all UBCIC members.

**Moved:** Kukpi7 Judy Wilson, Neskonlith Indian Band  
**Seconded:** Chief Ko’waintco Michel, Nooaitch First Nation  
**Disposition:** Carried  
**Date:** May 30, 2012

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UNION OF B.C. INDIAN CHIEFS  
CHIEFS COUNCIL  
MAY 30<sup>TH</sup>- MAY 31<sup>ST</sup>, 2012  
RICHMOND, B.C.

**Resolution no. 2012-19**

## **RE: Continued Advocacy for Fisheries and Aquaculture**

**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, and Treaty 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** Article 26 of the UNDRIP provides that 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;

**WHEREAS** Articles 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** significant Supreme Court Decisions such as *Gladstone*, *Marshall*, *Ahousaht*, *Delgamuukw*, *Haida* and *Sparrow* which directly and indirectly impact Aboriginal Title, Rights and Treaty Rights have not been honourably fulfilled or implemented by the Government of Canada;

**WHEREAS** the overarching mandate of the UBCIC endorsed on September 2010 by the Chiefs-in-Assembly, is to work towards the implementation, exercise and recognition of our inherent Title, Rights and Treaty rights and to protect our Lands and Waters through the exercise and implementation of our own laws and jurisdiction. Further, the UBCIC works collectively amongst Indigenous Nations in BC and to act as an advocacy body to provide a cohesive voice (regionally, nationally and internationally) in support of Indigenous Nations and communities;

**WHEREAS** in 2007 an interim BC First Nations Fisheries Council was established with instructions to further develop a long term organizational mandate, structure, and function of the First Nations Fisheries Council that would be broadly supported by BC First Nations;

**WHEREAS** by UBCIC Resolution 2009-05 “Changes to the BC First Nations Fisheries Council”, UBCIC endorsed the following mandate for the First Nations Fisheries Council:

The First Nations Fisheries Council works with and on behalf of BC First Nations to protect and reconcile First Nations rights and title as they relate to fisheries and the health and protection of aquatic resources. The Council will achieve this mandate by working to:

- Advance and protect First Nations title and rights related to fisheries and aquatic resources, including priority access for food, cultural and economic purposes;
- Support First Nations to build and maintain capacity related to fishing, planning, policy, law, management, and decision-making at a variety of scales (local, regional, national, international); and
- Facilitate discussions related to the development of a British Columbia-wide First Nations-based collaborative management framework that recognizes and respects First Nations jurisdiction, management authority and responsibilities.

**WHEREAS** by UBCIC Resolution 2011-36 *Support for the Strategic Direction of the First Nations Fisheries Council*, UBCIC called on the First Nations Leadership Council and the First Nations Fisheries Council to affirm respective intentions to work together in a cooperative and mutually supportive manner in order to coordinate policy and technical assets towards specific advocacy and communication objectives, and to develop a *Declaration & Protocol*, which clarifies the respective roles and responsibilities of each party in addressing sectoral issues and priorities identified by First Nations;

**WHEREAS** on November 9<sup>th</sup>, 2011 the UBCIC entered into a *Declaration & Protocol of Recognition, support, Cooperation and Coordination* with the First Nations Fisheries Council;

**WHEREAS** this *Declaration & Protocol of Recognition, Support, Cooperation and Coordination* works to unite and cooperate First Nations organizations to coordinate political and technical strengths towards the objectives of unity and advancing First Nations inherent, inalienable right of self-determination, Aboriginal Title and Right and Treaty Rights and improving the socio-economic conditions of Indigenous Peoples;

**WHEREAS** the UBCIC Chiefs Council continues to be firmly resolute in advocating for Aboriginal Title, Rights, and Treaty Rights with respect to fisheries and aquaculture, particularly given the current drastic attempts by the Federal Government to gut the environmental protections for fish and fish habitat through the omnibus Bill C-38: *Jobs, Growth and Long-term Prosperity Act*.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council reaffirms its role to strongly advocate for Aboriginal Title, Rights and Treaty Rights with respect to fisheries and aquaculture, as mandated through existing resolutions.

**Moved:** Chief Ko’waintco Michel, Nooaitch First Nation  
**Seconded:** Henry Anthony, Adams Lake Indian Band (Proxy)  
**Disposition:** Carried  
**Date:** May 31, 2012

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CHIEFS COUNCIL  
MAY 30<sup>TH</sup> - MAY 31<sup>ST</sup>, 2012  
RICHMOND, B.C.

**Resolution no. 2012-20**

## **RE: Updated BC First Nations Mining Policy**

**WHEREAS** mining free entry dates back to the gold rush period, when the Crown deemed that natural resources were infinite and that wilderness should be tamed. Today, this is still the foundation of British Columbia's mining industry;

**WHEREAS** the provincial free entry regime provides open access to any miner to any part of the provincial mineral zone to explore for minerals. The regime does not recognize constitutionally protected Aboriginal Title and Rights, and is incompatible with both the Crown's legal duty to consult with and accommodate First Nations and the Province's commitments under the New Relationship;

**WHEREAS** the free entry system jeopardizes the future of a healthy mining industry in BC and the opportunity for the Crown and industry to build positive governance and business relationships with First Nations;

**WHEREAS** a significant overhaul of the provincial legislative and regulatory mining regime is needed to decrease conflict, responsibly manage lands and resources, ensure sustainable development, provide meaningful benefits to First Nations, and provide certainty for government and industry investments;

**WHEREAS** by Resolution 2011-22, the UBCIC Chiefs Council: a) supported the creation of a legal requirement for mineral exploration agreements that should be in place with the impacted First Nation(s) prior to exploration; and, b) called on the First Nations Energy and Mining Council to work with the First Nations Leadership Council, to create a solutions paper for engaging the Province on solutions to the mining free entry system, consistent with the *United Nations Declaration on the Rights of Indigenous Peoples* including the right to Free, Prior and Informed Consent;

**WHEREAS** pending changes to the mining regime, there is a need for consistent policy guidance for use by First Nations when negotiating with the Crown or proponents in relation to proposed mineral

exploration or mining projects in the context of the free mining regime, and in light of current provincial and federal legislative and policy shifts to streamline regulatory approval processes;

**WHEREAS** in response to this First Nations capacity need, the First Nations Energy & Mining Council has worked with First Nations to develop a draft, optional BC First Nations Mining Policy that is intended to provide greater clarity of First Nations' expectations in relation to mineral exploration and other mining related activities in our respective territories, including our role as governments in decision-making and ensuring our communities share in benefits and revenues generated from development of lands and resources in our territories. In particular, the BC First Nations Mining Policy is intended to: a) set out standards and principles on which our Nations will base decisions respecting proposals for mineral exploration and other mining related activities in our respective territories; and b) set out how our Nations intend to respond to and manage proposals for mineral exploration and other mining related activity in our territories;

**WHEREAS** supporting the use of the BC First Nations Mining Policy would serve to increase Crown and proponent understanding of First Nations' standards in relation to engagement and mining activities, and support First Nation capacity to negotiate and conclude agreements to ensure certain critical issues are addressed, while work is undertaken to reform the free entry regime;

**WHEREAS** the following Articles of the *United Nations Declaration on the Rights of Indigenous Peoples* are relevant to the BC First Nations Mining Policy and are set out in Schedule B to the Policy: 3, 18, 19, 25, 26, 28, 29, 31, 32, 37, 38 and 39;

**WHEREAS** UBCIC Resolution 2012-05, regarding an earlier version of the BC First Nations Mining Policy, was tabled by the UBCIC Chiefs Council on February 24<sup>th</sup>, 2012 and the First Nations Energy and Mining Council has since revised the policy.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council supports the revised draft BC First Nations Mining Policy as a policy option, and supports its member First Nations who choose to adopt and implement the Policy, making any modifications each First Nation may deem appropriate for its respective laws as well as reviewing with its own legal counsel;

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs Council calls on the UBCIC Executive to work with interested First Nations, the BC First Nations Energy & Mining Council, the First Nations Summit, and the BC Assembly of First Nations to:

- a. Develop and implement a communications strategy to advise and inform the Province, Canada, proponents and industry groups about the BC First Nations Mining Policy; and
- b. Develop and coordinate strategies to assist First Nations to implement the BC First Nations Mining Policy if they so choose.

**Moved:** Chief Cheryl Casimer, St. Mary's Indian Band  
**Seconded:** Chief Jonathan Kruger, Penticton Indian Band  
**Disposition:** Carried  
**Date:** May 31, 2012



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CHIEFS COUNCIL  
MAY 30<sup>TH</sup> - MAY 31<sup>ST</sup>, 2012  
RICHMOND, B.C.

**Resolution no. 2012-21**

## **RE: Opposition to Bill C-38, Federal Omnibus Budget Bill**

**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 have legal and constitutionally protected rights and responsibilities to protect our traditional territories and all that this encompasses;

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

**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.

**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 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....;

**WHEREAS** based on domestic law and international doctrine, it is imperative that fundamental changes to the environmental assessment process and other environmental protection laws must include meaningful consultation with First Nations;

**WHEREAS** the 2012 Federal budget implementation bill (Bill C-38 *Jobs, Growth and Long-Term Prosperity Act*) is an omnibus piece of legislation that was introduced on April 26, 2012 and amends or repeals nearly 70 federal laws including amendment to: the *First Nations Land Management Act*, the *Fisheries Act*, the *Navigable Waters Act*, the *Species at Risk Act*, the *Canada National Parks Act*, the *Canada National Marine Conservation Areas Act*, and the *Parks Canada Agency Act* and contains a new *Canadian Environmental Assessment Act* ("CEAA 2012");



**WHEREAS** Bill C-38 stands to have a deep and negative impact on Aboriginal Title and Rights, and Treaty Rights and the environment, specifically through drastically weakening the existing legislation that safeguards and protects the environment. Bill C-38 changes can be broadly summarized as:

- Weakened environmental protection measures;
- Broad decision making powers for Cabinet and Ministers with less accountability; and fewer opportunities for First Nations to engage on key issues such as environmental protection and related decisions; and
- The undermining of critical roles played by oversight bodies such as the Office of the Auditor General of Canada and the National Energy Board, thereby essentially silencing institutional checks and balances;

**WHEREAS** the proposed changes in Bill C-38 to the *Fisheries Act* fundamentally change the environmental protections of fish and fish habitat and significantly alter the protection of stocks that may or may not be considered to have “commercial, recreational or aboriginal” value;

**WHEREAS** the proposed changes in Bill C-38 to the *Fisheries Act* also give increased discretion and authority to the Minister of Fisheries and Oceans, which allows important considerations regarding the protection of ecosystems, fish and fish habitat to be placed in the hands of political, and possibly industry, interests;

**WHEREAS** the proposed changes in Bill C-38 allow the Federal Government to offload responsibilities to the provinces, including shifting responsibility for implementation or enforcement of the *Fisheries Act* to provinces and eliminating many federal environmental assessments in efforts to create a “one project, one review” process as set out in the Federal Government’s *Responsible Resource Development Plan*;

**WHEREAS** in 2009 the First Nations Energy and Mining Council met with a number of specialists with environmental review expertise and developed an environmental review solutions paper titled, ‘New Approaches to Environmental Assessments in BC.’ The UBCIC Chiefs Council supported this paper by Resolution 2009-40;

**WHEREAS** provincial offloading with respect to decisions that affect resource development is particularly concerning given that the BC Government is now simultaneously working to create regulations that exempt some “low-risk” activities from the requirement to hold a *Mines Act* permit, and the UBCIC Chiefs Council opposed these changes to the *Mines Act* in Resolution 2011-53;

**WHEREAS** Bill C-38 and its erosion of environmental protections attempts to facilitate resource development by third party interests while blatantly dismissing Aboriginal Title, Rights, and Treaty Rights, and the environment.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council strongly opposes the omnibus Bill C-38 *Jobs, Growth and Long-term Prosperity Act*, including its erosion of environmental protections to serve the interests of industry while ignoring Aboriginal Title, Rights, and Treaty Rights, and the unilateral imposition of the proposed *Canadian Environmental Assessment Act 2012*;

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs Council calls on the Federal Government to immediately halt and abandon Bill C-38, and demands that the Federal Government work to separate the changes proposed in Bill C-38 by issue (e.g. 2012 Budget, *Fisheries Act* changes,

*Canadian Environmental Assessment Act* changes, etc.) and then engage in appropriate and meaningful consultation with First Nations;

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive to work with like-minded organizations to strongly oppose Bill C-38, and to communicate any progress to the UBCIC Chiefs Council;

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive to communicate opposition to the Federal Government and demand that the Federal 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 Judy Wilson, Neskonlith Indian Band  
**Seconded:** Chief Ko'waintco Michel, Nooaitch First Nation  
**Disposition:** Carried  
**Date:** May 31, 2012

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UNION OF B.C. INDIAN CHIEFS  
CHIEFS COUNCIL  
MAY 30<sup>TH</sup> - MAY 31<sup>ST</sup>, 2012  
RICHMOND, B.C.

**Resolution no. 2012-22**

**RE: UBCIC Intervention in Neskonlith Appeal Regarding Application of the Constitutional Duty to Consult to Municipalities**

**WHEREAS** in March 2012, the Neskonlith Indian Band brought a case against the City of Salmon Arm for failing to meet the constitutional (Haida Style) duty to consult when permitting a development in a floodplain, for which they are the sole decision-maker under provincial law;

**WHEREAS** the development, a large shopping centre by SmartCentres, threatens the Salmon River Delta and Floodplain, an important traditional and current use area for Neskonlith Indian Band members and the Lake Secwepemc people;

**WHEREAS** the Aboriginal Title, Rights and Treaty Rights of many First Nations are affected by decisions of municipalities/local governments who are endowed with increasing decision making power under provincial law;

**WHEREAS** the *United Nations Declaration on the Rights of Indigenous Peoples* stipulates in Article 19 that “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** the province is subject to a constitutional duty to consult regarding decisions that could impact Aboriginal Title, Rights and Treaty Rights.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council supports the Neskonlith Indian Band’s strong constitutional argument that the duty to consult should apply to local governments as decision-makers exercising land use decision making authority under provincial law;

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive to seek resources in order to apply for Intervener Status in the Neskonlith Appeal in support of the constitutional duty to consult applying to municipalities;

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**2012-22**

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**THEREFORE BE IT FINALLY RESOLVED** that subject to resources, the UBCIC Chiefs Council directs the UBCIC Executive to meet the schedule for the expedited appeal with Intervener applications to be filed by June 15, 2012 and if granted their factums by June 25, 2012, so that the appeal can be heard on August 14 and 15, 2012.

**Moved:** Chief Judy Wilson, Neskonlith Indian Band  
**Seconded:** Chief Rob Edward, Lower Similkameen Indian Band  
**Disposition:** Carried  
**Date:** May 31, 2012

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UNION OF B.C. INDIAN CHIEFS  
CHIEFS COUNCIL  
MAY 30-31<sup>ST</sup>, 2012  
RICHMOND, B.C

Resolution no. 2012-23

**RE: Support for the First Nations Child and Family Caring Society Campaign:  
*Our Dreams Matter Too***

**WHEREAS** the First Nations Child and Family Caring Society (FNCFCFS) is a national organization with a mandate that focuses on research, policy, networking and professional development, in order to explore and address the causes of disadvantage for Aboriginal children and families by promoting equitable and culturally based interventions;

**WHEREAS** non-discrimination and respect for cultures and languages are shared principles of the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP), the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Racial Discrimination;

**WHEREAS** Article 14 of the UNDRIP states:

1. 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;
2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination;
3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language;

**WHEREAS** working with the Office of the Provincial Advocate for Children and Youth in Ontario, the First Nations Child and Family Caring Society of Canada (FNCFCFS) produced a report on inequities in education for the United Nations called "*Our Dreams Matter Too*"; the report release received significant media attention internationally and nationally;

**WHEREAS** the FNCFCS then developed an *Our Dreams Matter Too* campaign focusing on giving First Nations children the same chance to grow up safely at home, get a good education, be healthy, and proud of their cultures;

**WHEREAS** the campaign date is scheduled for June 11, 2012, which is also the four year anniversary of the Prime Minister's residential schools apology;

**WHEREAS** the *Our Dreams Matter Too* campaign encourages individuals and organizations to send letters to the Prime Minister supporting culturally based equity for First Nations children. The purpose is to organize a community-based walk to the mailbox with letters of support for the campaign and cause;

**WHEREAS** the campaign involves signing the attached letter and mailing it to the Prime Minister;

**WHEREAS** the peaceful and respectful walk supports three FNCFCS campaigns:

- **Shannen's Dream** ([www.shannensdream.ca](http://www.shannensdream.ca)) for "safe and comfy schools" and quality education
- **Jordan's Principle** ([www.jordansprinciple.ca](http://www.jordansprinciple.ca)) to ensure equitable access to all government services and
- **The "I am a witness" campaign** ([www.fnwitness.ca](http://www.fnwitness.ca)) to help First Nations children grow up safely at home;

**WHEREAS** The First Nations Child and Family Wellness Council (FNCFWC) support the FNCFCS's current campaign *Our Dreams Matter Too* and the work of Cindy Blackstock, Executive Director of FNCFCS.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council supports the First Nations Child and Family Caring Society's current campaign *Our Dreams Matter Too*;

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs Council calls on First Nations leadership and community members to take action in support of the campaign by sharing information, organizing community walks and encouraging letters from as many individuals as possible.

**Moved:** Chief Lucinda Phillips, Lil'wat First Nation  
**Seconded:** Kukpi7 Judy Wilson, Neskonlith Indian Band  
**Disposition:** Carried  
**Date:** May 31, 2012

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CHIEFS COUNCIL  
MAY 30<sup>TH</sup> - MAY 31<sup>ST</sup>, 2012  
RICHMOND, B.C.

**Resolution no. 2012-24**

**RE: Ending Inequity for First Nations Children and Youth in Welfare, Education and Health**

**WHEREAS** affirming that children and youth are sacred and valued members of First Nations communities and represent the perpetuity of First Nations cultures, languages and ways of life;

**WHEREAS** non-discrimination and respect for cultures and languages are shared principles of the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP), the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Racial Discrimination;

**WHEREAS** affirming the Prime Minister's commitments to reconciliation in the 2008 Apology for Residential Schools, and at the 2012 Crown-First Nations Gathering;

**WHEREAS** calling attention to the longstanding and documented inequities in Federal Government funding for First Nations child and youth welfare, education and health services that have persisted despite the availability of viable solutions and regardless of the financial situation of the Federal Government;

**WHEREAS** funding inequities contribute to First Nations children being over-represented in foster care and amongst those with poor educational and health outcomes;

**WHEREAS** the Federal Government is acting in a manner not consistent with its fiduciary obligations to First Nations to act in the best interest of our children and families.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council calls on the Prime Minister of Canada to set a target date no later than 2015 to end the inequities experienced by First Nations children and youth in welfare, education and health;

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs Council requests that the Prime Minister report annually to the public on progress toward meeting the end of inequity target date;



**THEREFORE BE IT FINALLY RESOLVED** that the UBCIC Chiefs Council directs the UBCIC Executive and staff to work with the Assembly of First Nations, First Nations Caring for First Nation Children Society, First Nations Child and Family Wellness Council and other like-minded organizations on this issue, and to monitor and report publically on government's progress in meeting the proposed target date.

**Moved:** Chief Jonathan Kruger, Penticton Indian Band  
**Seconded:** Chief Rob Edward, Lower Similkameen Indian Band  
**Disposition:** Carried  
**Date:** May 31, 2012

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UNION OF BRITISH COLUMBIA INDIAN CHIEFS

FOUNDING HEAD OFFICE  
209 - 345 Yellowhead Highway  
Kamloops, B.C. V2H 1H1  
Tel: 250-828-9746  
Fax: 250-828-0319



VANCOUVER OFFICE  
5th Floor, 342 Water Street  
Vancouver, B.C. V6B 1B6  
Tel: 604-684-0231  
Fax: 604-684-5726  
1-800-793-9701  
Email: [ubcic@ubcic.bc.ca](mailto:ubcic@ubcic.bc.ca)  
Web: [www.ubcic.bc.ca](http://www.ubcic.bc.ca)

UNION OF B.C. INDIAN CHIEFS  
CHIEFS COUNCIL  
MAY 30<sup>TH</sup> - MAY 31<sup>ST</sup>, 2012  
RICHMOND, B.C.

**Resolution no. 2012-25**

## **RE: Creation of BC Tripartite Statement on Jordan's Principle**

**WHEREAS** Jordan, a First Nations child from Norway House First Nation, unnecessarily remained in hospital for over two years as federal and provincial governments disputed over which one would pay for the costs of his care in a family home;

**WHEREAS** by UBCIC Resolution 2008-14, the UBCIC Chiefs Council provided support for Jordan's Principle which states, where a jurisdictional dispute arises between two government parties (provincial/territorial or federal) or between two departments or ministries of the same government, regarding payment for services for a Status Indian child which are otherwise available to other Canadian children, the government or ministry/department of first contact must pay for the services without delay or disruption, subject to a right to take the matter afterwards to a jurisdictional dispute mechanism. In this way, the needs of the child get met first while still allowing for the jurisdictional dispute to be resolved;

**WHEREAS** a BC Jordan's Principle Tripartite Working Group (JPTWG) was struck in 2008/09. Membership to the JPTWG included representatives from the BC and Federal Governments as well as First Nations organizations – BC Aboriginal Child Care Society, BC Aboriginal Network on Disability Society, Caring for First Nations Children's Society, the Director's Forum, First Nations Health Council and the First Nations Child and Family Wellness Council (FNCFWC);

**WHEREAS** to the exclusion of First Nations, the BC and the Federal Governments developed a joint process document to support the continued implementation of Jordan's Principle in BC, which commits the two parties to develop a dispute resolution mechanism, as well as to work with First Nations in development of an implementation work plan. The document was approved by the BC and Federal Governments and endorsed in late 2011;

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

**Article 18:** Indigenous peoples have the right to participate in decision-making matters which would affect their rights, through representatives chosen by themselves in accordance with their

own procedures, as well as to maintain and develop their own indigenous decision-making institutions;

**Article 21(2):** States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities;

**WHEREAS** the FNCFWC is working in alignment with Nations and communities to support BC First Nations continued control over their children and families by advancing the Indigenous Child at the Centre Action Plan (ICCAP), as mandated by UBCIC Resolution 2009-38;

**WHEREAS** at the Indigenous Child at the Centre Forum IV (ICC IV), First Nations leadership emphasized that First Nations in BC require seats at any provincial/federal table where First Nations children are being discussed;

**WHEREAS** the Federal and BC Governments are creating a dispute resolution mechanism (Joint Statement) bilaterally without the involvement of First Nations leadership as an equal partner;

**WHEREAS** tripartite work to implement Jordan's Principle is underway in New Brunswick, Manitoba, and Saskatchewan that involves respective First Nations leadership, the respective Provincial Government, and the Federal Government.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council supports the First Nations Child and Family Wellness Council (FNCFWC) in advocating for:

1. Creation of a Tripartite Statement on the Implementation of Jordan's Principle in BC that includes First Nations, BC, and Canada; and
2. The dissemination of all related information to all Nations and communities;

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs Council directs the FNCFWC to report back to the UBCIC Chiefs Council with regards to progress on creating the Tripartite Statement on the Implementation of Jordan's Principle in BC.

**Moved:** Chief Glenda Campbell, Tzeachten First Nation

**Seconded:** Clint Tuttle, Sumas First Nation (Proxy)

**Disposition:** Carried

**Date:** May 31, 2012

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### UNION OF B.C. INDIAN CHIEFS CHIEFS COUNCIL MAY 30-31<sup>ST</sup>, 2012 RICHMOND, B.C.

**Resolution no. 2012-26**

#### **RE: Opposition to FNCIDA and Provincial Bill 43: *First Nations Commercial and Industrial Development Implementation Act***

**WHEREAS** in 2006, the Government of Canada legislation *the First Nations Commercial and Industrial Development Act* (FNCIDA) came into force;

**WHEREAS** on May 3<sup>rd</sup>, 2012, the British Columbia Ministry of Aboriginal Relations and Reconciliation introduced Bill 43, *the First Nations Commercial and Industrial Development Implementation Act*, (Bill 43);

**WHEREAS** Articles 26, 27, 29 and 32 of the *United Nations Declaration on the Rights of Indigenous Peoples* 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** FNCIDA and Bill 43 will work together to allow provincial laws and regulations to apply to major commercial and industrial projects on federal Indian reserve land;

**WHEREAS** FNCIDA allows BC to enter into agreements with Canada and First Nations to administer provincial laws and regulations on reserve lands for specific projects;

**WHEREAS** the Union of BC Indian Chiefs respects and further supports any First Nation's right to exercise self-determination with respect to any potential projects or development;

**WHEREAS** FNCIDA works in conjunction with Bill 43 and will incrementally erode the authority and jurisdiction of First Nations over their lands and people;

**WHEREAS** FNCIDA and Bill 43 potentially undermine the division of powers as set out in Canadian Constitution and allows for the application of provincial legislation and regulations on federal Indian reserve land.

**THEREFORE BE IT RESOLVED** that the UBCIC Chiefs Council opposes FNCIDA and Provincial Bill 43 *The First Nations Commercial and Industrial Development Implementation Act* and the dovetailing approaches taken by both the provincial and federal governments to erode First Nations authority and jurisdiction;

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive to communicate to the federal and provincial governments our opposition to FNCIDA and Bill 43, and that the further application of provincial laws and regulations on Indian reserve land is unacceptable.

**Moved:** Kukpi7 Judy Wilson, Neskonlith Indian Band  
**Seconded:** Henry Anthony, Adams Lake Indian Band, (Proxy)  
**Disposition:** Carried  
**Date:** May 31, 2012

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UNION OF B.C. INDIAN CHIEFS  
CHIEFS COUNCIL  
MAY 30<sup>TH</sup> - MAY 31<sup>ST</sup>, 2012  
RICHMOND, B.C.

**Resolution no. 2012-27**

**RE: Rescind UBCIC Resolution 2011-61**

**WHEREAS** Resolution 2011-61 “The Indian Land Question and the Columbia River Treaty” was introduced to the UBCIC Chiefs Council on November 22<sup>nd</sup> - November 23<sup>rd</sup>, 2011;

**WHEREAS** Resolution 2011-61 was moved by Kukpi7 Wayne Christian, Splats’in, and seconded by Chief Fred Sampson, Siska First Nation;

**WHEREAS** the UBCIC Chiefs Council tabled Resolution 2011-61;

**WHEREAS** Kukpi7 Christian, on behalf of the Shuswap Nation Tribal Council, sent a letter to the UBCIC Executive dated February 9, 2012, stating that he will formally rescind Resolution 2011-61 at the next UBCIC Chief’s Council;

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council accepts the formal rescinding of Resolution 2011-61.

**Moved:** Kukpi7 Judy Wilson, Neskonlith Indian Band  
**Seconded:** Chief Jonathan Kruger, Penticton Indian Band  
**Disposition:** Carried  
**Date:** May 31, 2012

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CHIEFS COUNCIL  
MAY 30<sup>TH</sup> - MAY 31<sup>ST</sup>, 2012  
RICHMOND, B.C.

**Resolution no. 2012-28**

## **RE: Just Resolution of Specific Claims**

**WHEREAS** Canada introduced the *Justice at Last* initiative in 2007 to improve previous processes for specific claims resolution through meaningful negotiation and mediation which included the passage of the *Specific Claims Tribunal Act* and the subsequent creation of a new tribunal which could make binding decisions on rejected specific claims and new policies designed to streamline the resolution of specific claims and eliminate the specific claims backlog;

**WHEREAS** *Justice at Last* offered great potential for Canada to improve Crown-First Nations relationships by meaningfully and finally resolving its outstanding lawful obligations pertaining to specific claims;

**WHEREAS** the *United Declaration on the Rights of Indigenous Peoples* sets out:

**Article 27:** States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process;

**Article 28:** 1) Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent. 2) Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress;



**WHEREAS** Canada has walked away from its commitment to negotiate specific claims settlement and is increasingly making “take-it-or-leave-it” settlement offers to First Nations that often fall far short of the real value of the claims;

**WHEREAS** by outright rejecting claims and closing claims files, Canada is transferring its lawful obligation to resolve Specific Claims, and its moral obligation to do so through good faith negotiations, from the Departments of Aboriginal Affairs (formerly Indian Affairs) and Justice and onto the back of the new, under-resourced Specific Claims Tribunal;

**WHEREAS** UBCIC Resolution 2007-33 resolves that “the new accelerated resolution of specific claims and Specific Claims Action Plan, *Justice at Last*, must move forward with First Nations input. The process must not alienate pre-confederation claims and must not extinguish Aboriginal Title and Rights;”

**WHEREAS** UBCIC Resolution 2009-15 demands that Canada act in accordance with the principles articulated in the *Justice at Last* initiative rather than to continue to demand First Nations respond to Canada's unilateral and unfair rules;

**WHEREAS** UBCIC Resolution 2010-07 encourages First Nations to reject and oppose any mediation services that do not reflect the principles as articulated in the *Justice at Last* and the *United Nations Declaration on the Rights of Indigenous Peoples*.

**WHEREAS** UBCIC Resolution 2011-40 acknowledges that given the large number of claimant First Nations in BC, and the large number of specific claims from First Nations of BC currently in the system, the Union of BC Indian Chiefs is committed to achieving a just, fair and timely process for resolving outstanding specific claims in BC;

**WHEREAS** Canada continues to impose bureaucratic and operational obstacles to the fair and timely resolution of specific claims, including:

- a. Using the legislated three year timeline, originally established to compel Canada to negotiate in good faith, as an “operational model” whereby Canada has internally determined it must “address” Specific Claims within this time period. To this end, Canada has been rejecting claims outright on an unprecedented scale, providing limited acceptances, “closing files”, and even walking away from active negotiations that are beyond the three year timeline;
- b. Canada has imposed a “minimum standard” for claim submission whereby it can arbitrarily turn away new claims filed with the Minister causing additional delay and significant cost to First Nations. Increasingly the minimum standard has been applied so stringently that it far exceeds litigation standards;
- c. Canada has created a six month period to “review” filed claims to make sure they meet an imposed and unreasonable “minimum standard.” This review period is not legislated and delays the resolution of Specific Claims;
- d. Canada uses its online inventory to publicly report that specific claims are being addressed. This is a bureaucratic tool to mislead the public by implying resolution of claims where it is not happening. In fact, claims are being rejected and closed at unprecedented rates.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council demands that Canada fulfills its moral and lawful obligations to First Nations by resolving Specific Claims through good faith practices and meaningful negotiations as committed to in *Justice at Last*;

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive to communicate this opposition to the federal government.

**Moved:** Chief Kevin Whitney, T'it'iqet First Nation  
**Seconded:** Chief Glenda Campbell, Tzeachten First Nation  
**Disposition:** Carried  
**Date:** May 31, 2012

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UNION OF B.C. INDIAN CHIEFS  
CHIEFS COUNCIL  
MAY 30<sup>TH</sup> - MAY 31<sup>ST</sup>, 2012  
RICHMOND, B.C.

**Resolution no. 2012-29**

## **RE: Support for Ktunaxa Child and Family Model**

**WHEREAS** affirming that children and youth are sacred and valued members of First Nations communities and represent the perpetuity of First Nations cultures, languages and ways of life;

**WHEREAS** Article 19 of the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) states “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** there have been recent recommendations from the BC Representative for Children and Youth pertaining to Ministry of Child and Family Development (MCFD) oversight of Delegated Aboriginal Agencies and for a move to standardization of practice between MCFD and Delegated Aboriginal Agencies;

**WHEREAS** MCFD has failed to consult with First Nations on these standards in a meaningful way which is contrary to Article 19 of the UNDRIP and the honour and duty of the Crown;

**WHEREAS** Ktunaxa Kinbasket Child and Family Services has consistently surpassed established government endorsed standards of practice (Aboriginal Operational and Practice Standards and Indicators) as demonstrated in both the 2007 and 2010 Common Audit (Operations, Finance, and Practice);

**WHEREAS** the Ktunaxa Kinbasket Child and Family Services has shifted its practice from the British Columbia Risk Assessment Model to the Signs of Safety Practice Approach, which has been endorsed by MCFD;

**WHEREAS** MCFD has made commitments to the Ktunaxa Nation through the Ktunaxa Kinbasket Child and Family Services Delegation Agreement, the Joint Management Advisory Committee, and the Social Governance initiative;

**WHEREAS** the Ktunaxa Nation maintains that MCFD is not operating within the spirit and principles set out in the delegation agreement and is unilaterally requiring the Ktunaxa Kinbasket Child and Family Services to implement the British Columbia Child Protection Response Model and the Structured Decision Making Tools.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council calls on the Minister of Child and Family Development to immediately cease the requirement for the Ktunaxa Kinbasket Child and Family Services to implement the British Columbia Child Protection Response Model and the Structured Decision Making Tools; and

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs Council calls on the Minister of Child and Family Development and the Minister of Aboriginal Relations and Reconciliation to immediately meet with representatives of the Ktunaxa Nation Social Sector and the Ktunaxa Nation Executive Council as soon as possible to address this issue.

**Moved:** Chief Cheryl Casimer, St. Mary's Indian Band  
**Seconded:** Chief Jonathan Kruger, Penticton Indian Band  
**Disposition:** Carried  
**Date:** May 31, 2012

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### UNION OF B.C. INDIAN CHIEFS CHIEFS COUNCIL MAY 30<sup>TH</sup> - MAY 31<sup>ST</sup>, 2012 RICHMOND, B.C.

**Resolution no. 2012-30**

#### **RE: Support for Hesquiaht to Reverse Injustice**

**WHEREAS** among the great wrongs done to the Indigenous people in British Columbia and Canada stands the wrongful hanging of an innocent Hesquiaht chief on July 29, 1869 by the Colonial powers that seriously affected the Hesquiaht people;

**WHEREAS** after a sham trial in Victoria, the Provincial government of the time wrongfully hanged Chief Anichahchist, in front of his young family and tribe, and left the gallows standing for five years to intimidate the people of Hesquiaht;

**WHEREAS** this miscarriage of justice stands unrectified by the governments today;

**WHEREAS** the United Nations *Declaration on the Rights of Indigenous Peoples* sets out that:

- Article 8(1): Indigenous individuals have the right not to be subjected to forced assimilation or destruction of their culture.
- Article 31(1): Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions... and their intellectual property;

**WHEREAS** a memorial pole was recently erected at Hawilth Anichahchist's home village of Homis near Estevan Point on the West Coast of Vancouver Island;

**WHEREAS** the Hesquiaht people have been seeking a pardon to exonerate his name and undo a historic wrong. Negotiations are ongoing with the Provincial government and the Hesquiaht are seeking support from the UBCIC Chiefs Council.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council calls on the Provincial and Federal governments, in the true spirit of Truth and Reconciliation, to clear the name of Chief Anichahchist, who was wrongfully hung on July 29, 1869 and issue a public apology to the family and muschim of Hesquiaht First Nation for this act.

**Moved:** Terry Dorward-Seitcher, Tla-o-qui-aht First Nation (Proxy)  
**Seconded:** Chief Jonathan Kruger, Penticton Indian Band  
**Disposition:** Carried  
**Date:** May 31, 2012

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UNION OF B.C. INDIAN CHIEFS  
CHIEFS COUNCIL  
MAY 30<sup>TH</sup> - MAY 31<sup>ST</sup>, 2012  
RICHMOND, B.C.

**Resolution no. 2012-31**

## **RE: Support for Coordinated Legal Strategy to Stop Enbridge Pipeline Project**

**WHEREAS** Indigenous Peoples have absolute jurisdiction over our territories, our resources and our lives with the inherent right to manage our territories including our lands and waters;

**WHEREAS** Enbridge Inc. proposes to build two parallel 1,170 kilometre pipelines between the Alberta tar sands and a new marine terminal at Kitimat to export crude oil and import condensate (the Enbridge Northern Gateway Pipeline Project);

**WHEREAS** Indigenous Peoples refuse to put their territories at risk as a consequence of the proposed Enbridge Northern Gateway Pipeline Project and crude oil tanker traffic. As Indigenous Peoples, we have experienced time and time again, third party industrial interests being granted access to the resources of our territories. The Federal and Provincial Governments continually fail to recognize our Indigenous Title, Rights and Treaty Rights which reflect and enshrine the deep environmental values that many British Columbians share with us;

**WHEREAS** by Resolution 2009-24, the UBCIC Chiefs Council called on the Crown to work collaboratively with First Nations to develop a comprehensive review and decision-making process for the proposed Enbridge Northern Gateway Pipeline Project, and by Resolution 2010-11, the UBCIC Chiefs Council declared opposition to the Enbridge Northern Gateway Pipeline Project;

**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 Joint Review Panel on the Enbridge Northern Gateway Pipeline appears biased and politically driven, and there has been no honourable consultation with First Nations to date;

**WHEREAS** UBCIC continues to stand with the Yinka Dene Alliance, Coastal First Nations, Heiltsuk Nation, Carrier-Sekani Tribal Council and the many other Indigenous Peoples up and down the coast and heartland of British Columbia in their resolute opposition to the proposed Enbridge Northern Gateway Pipeline;

**WHEREAS** the Province refuses to take a position on the Enbridge Northern Gateway Pipeline, stating that they are waiting for the outcomes of the Joint Review Panel;

**WHEREAS** the UBCIC Chiefs Council recognizes that there is strong and clear political opposition to Enbridge including the BC NDP, the City of Terrace, the Skeena Queen Charlotte Regional District and the majority of British Columbians;

**WHEREAS** a coordinated legal strategy will greatly assist Indigenous Peoples in best utilizing the Joint Review Panel process.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council reiterates its strong and absolute opposition to the Enbridge Northern Gateway Pipeline and its solidarity with those who stand in defense of their respective territories;

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs Council supports the creation of a coordinated legal strategy to stop the Enbridge Northern Gateway Pipeline including First Nations, First Nations organizations, environmental groups, and other like-minded organizations.

**Moved:** Kukpi7 Judy Wilson, Neskonlith Indian Band  
**Seconded:** Henry Anthony, Adams Lake Indian Band (Proxy)  
**Disposition:** Carried  
**Date:** May 31, 2012