

OUR LAND IS OUR FUTURE

UNION OF BRITISH COLUMBIA INDIAN CHIEFS

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Resolutions from UBCIC Chiefs Council, November 28-29, 2012 Passed Unless Marked as "TABLED"

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- 2012-52 Just Resolution of Specific Claims
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CHIEFS COUNCIL
NOVEMBER 28TH - NOVEMBER 29TH, 2012
VANCOUVER, B.C.

Resolution no. 2012-51

RE: Proposed National First Nations Education Legislation

WHEREAS education is a fundamental human right. For First Nations, this right is uniquely situated within a framework of inherent rights as Indigenous people that are constitutionally protected under section 35 of the Constitution Act, 1982, and supported by international mechanisms and instruments, such as the Convention on the Rights of the Child (“Convention”) and the *United Nations Declaration on the Rights of Indigenous Peoples* (“Declaration”);

WHEREAS Canada, having ratified the Convention, which sets out the civil, political, economic, social, health and cultural rights of children, has a positive obligation to ensure, among other things, that measures are taken to ensure a child’s education is directed at: the development of a child's personality, talents and mental and physical abilities to their fullest potential; respect for the child’s parents; and, respect for a child’ own cultural identity, language and values;

WHEREAS the Declaration was endorsed by Canada on November 12, 2010, and represents the dynamic development of international legal norms and reflects the commitment of the United Nations’ member states to move in certain directions, provides a detailed list of Indigenous rights and state obligations that constitute the “minimum standards” for the survival, dignity and well-being of indigenous peoples of the world, including:

- a. The right of Indigenous peoples to freely determine their political status and institutions and pursue their economic, social and cultural development;
- b. The right of Indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children, consistent with the rights of the child;
- c. The right of Indigenous peoples 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;
- d. State obligations, in conjunction with indigenous peoples, to 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;

- e. The right of Indigenous peoples to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information;

WHEREAS in 1972 First Nations in Canada endorsed the policy of *Indian Control of Indian Education*, advancing an education approach premised on parental and local control, which was updated and further approved by First Nations in the Assembly of First Nations' *First Nations Control of First Nations Education – It's Our Vision, It's Our Time* in 2010;

WHEREAS First Nations in BC have been working together for almost two decades to advance quality educational opportunities and improve educational outcomes for First Nations students and, through their collective efforts, have established a solid foundation for a comprehensive, integrated, well-supported BC First Nations education system, which is founded on First Nations' languages and cultures, and reflects the values and traditions of First Nations communities;

WHEREAS the UBCIC Chiefs Council affirmed their unanimous support for the comprehensive First Nations K-12 Education System by Resolution 2011-24;

WHEREAS the Government of Canada indicated in Budget 2012, the Outcomes Statement to the Crown-First Nations Gathering, the Joint Canada-First Nations Action Plan, and in its plan for First Nations Education Reform, its intention to develop legislation regarding First Nations education and have it implemented by 2014 to address "governance" and "accountability" in First Nations education, including: teacher certification, school accreditation, curriculum and operational structure;

WHEREAS the Government of Canada's First Nations education program has a stated objective of "provincial comparability," which is not included in First Nations' vision of First Nation control over First Nations education, and is highly paternalistic;

WHEREAS national First Nations education legislation, if not appropriately developed, has significant implications for, and the potential to undermine or adversely affect, First Nations inherent rights, as well as regionally developed First Nations education systems and processes;

WHEREAS the Government of Canada is not co-developing the proposed legislation with First Nations and is not even consulting First Nations about the nature, scope and content of the legislation, or regional implications;

WHEREAS residential schools are an example of federal unilateral legislation on Aboriginal education which has had severely detrimental, long-term impacts on First Nations communities and individuals;

WHEREAS any unilateral federal action to reform First Nations education will infringe First Nations' governance rights, be in breach of the federal Crown's constitutional and legal obligations to First Nations in British Columbia, and will contradict and set back First Nations' vision and efforts to exercise control over the education of our children.

THEREFORE BE IT RESOLVED the UBCIC Chiefs Council calls upon the Government of Canada to fulfill its legal duties of consultation and accommodation to First Nations and commit to the following:

1. A new and appropriate time frame that allows sufficient time to engage with First Nations on the concept of national legislation regarding First Nations education to determine whether any national legislation is required;
2. Should First Nations and the federal government jointly agree legislation is necessary, the development of any national legislation regarding First Nations education will:
 - i. Occur jointly with First Nations as co-authors through a meaningful and transparent process that allows sufficient time and provides resources to support First Nations participation,
 - ii. Respect and support the diversity of First Nations within and among regions,
 - iii. Respect, support and promote regionally developed First Nations education systems built on First Nations' inherent authority, and
 - iv. Reflect First Nations' right of free, prior and informed consent to choose to opt in or out of the legislation;
3. That any national legislation regarding First Nations education will be premised on the following fundamental principles, the implementation of which will be measured against the principles of the *Convention on the Rights of the Child* and the *United Nations Declaration on the Rights of Indigenous Peoples*:
 - i. Recognition and implementation of First Nations control over First Nations education, as determined by First Nations, including recognition of the authority of First Nations to establish standards for education, teaching and any other such criteria required to implement high quality and culturally relevant education;
 - ii. Recognition of and support for the right of First Nation children to an education based in their languages, cultures, histories, knowledge and identities;
 - iii. Respect of and support for treaty rights,
 - iv. Respect of and support for First Nations regional diversity and regional education systems; and
 - v. Secured, sustained adequate funding that supports all components of First Nations education, including regionally developed First Nations education systems; and

THEREFORE BE IT FURTHER RESOLVED for greater certainty, the UBCIC Chiefs Council calls on the Government of Canada to commit that any new national legislation regarding First Nations education will not interfere with, affect or displace regional First Nations education systems, and specifically:

- i. Will not affect or displace the Tripartite Education Framework Agreement in BC; and
- ii. Will not abrogate nor derogate the *First Nations Jurisdiction over Education in British Columbia Act* and that this Act will be paramount to any national legislation.
- iii. Will not abrogate nor derogate the *First Nations Education Act* and that this Act will be paramount to any national legislation.

Moved: Chief Ko'waintco Michel, Nooaitch Indian Band
Seconded: Chief Rita Matthew, Simpcw First Nation
Disposition: Carried
Date: November 28, 2012

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NOVEMBER 28TH - NOVEMBER 29TH, 2012
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Resolution no. 2012-52

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 Canada is required by its own policies to conduct a five-year review of its Specific Claims Action Plan: *Justice at Last*;

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 and Northern Development (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 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 UBCIC Resolution 2011-40 calls for Canada to Canada fulfill 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* and for the UBCIC Executive to communicate this to the federal government.

WHEREAS UBCIC and the Nlaxa'pamux Nation Tribal Council prepared and presented a joint submission to Canada's review of *Justice at Last*;

WHEREAS the National Research Directors, an informal body of technicians working across the country who manage centralized Claims Research Units (CRUs) that are mandated to research and advance specific claims on behalf of First Nations, have agreed to prepare a joint submission to Canada's five year review of *Justice at last*; and, this submission reaffirms observations and recommendations made in the joint UBCIC/NNTC submission;

WHEREAS Canada continues to impose bureaucratic, operational, political and fiscal obstacles to the fair and timely resolution of specific claims.

THEREFORE BE IT RESOLVED the UBCIC Chiefs Council fully endorse the *draft* joint Research Directors' submission to Canada's five year review of *Justice at Last*.

Moved: Kukpi7 Judy Wilson, Neskonlith Indian Band
Seconded: Chief Robert Shintah, Ts'kw'aylaxw First Nation
Disposition: Carried
Date: November 28, 2012

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Resolution no. 2012-53

RE: Support for the Fair, Just and Timely Resolution of Aitchelitz Specific Claims

WHEREAS in its June 12, 2007 *Specific Claims Action Plan*, the Government of Canada committed to finally resolving Canada's outstanding legal obligations with respect to Specific Claims by creating a process that "ensure[s] impartiality and fairness, greater transparency, faster processing and better access to mediation." The *Action Plan* resulted in new legislation, *The Specific Claims Tribunal Act (SCTA)*, to eliminate the backlog of Specific Claims by creating an independent tribunal to review rejected or backlogged specific claims;

WHEREAS in September 2012, Aitchelitz First Nation was preparing to sign a settlement agreement with Canada with regard to a specific claims for the improper taking of a Road Right of Way on IR 1;

WHEREAS Canada demanded Aitchelitz Chief and Council sign a release clause that used overly broad language that would arguably release Canada from liability relating to a wide spectrum of facts including the reserve establishment history of IR No.1, not just the road right of way;

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

Article 8: States shall provide effective mechanisms for prevention of, and redress for... Any action which has the aim or effect of dispossessing them of their lands, territories or resources.

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 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 and adjudicate the rights 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 on October 2, 2012, the Aitchelitz First Nation sent a letter to Aboriginal Affairs and Northern Development Canada requesting the release clause wording be changed to reflect the actual scope of the specific claim, and provided alternate wording. Canada rejected this;

WHEREAS the Aitchelitz First Nation cannot in good conscience sign a settlement agreement that will eliminate its ability to pursue justice on other issues related to IR 1, and this specific claim therefore remains unresolved.

THEREFORE BE IT RESOLVED the UBCIC Chiefs Council fully supports the Aitchelitz First Nation in their efforts to achieve a fair, just and timely resolution of their Specific Claims;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council demands that Canada fulfills its lawful obligations to First Nations with respect to resolving Specific Claims by engaging in meaningful and honourable negotiations and not in actions that limit its own liability;

THEREFORE BE IT FINALLY RESOLVED the UBCIC Chiefs Council directs the UBCIC Executive to advance these demands in a letter to the Minister of Aboriginal Affairs and Northern Development Canada as well as in other submissions, presentations and materials.

Moved: Chief Maureen Chapman, Skawahlook First Nation
Seconded: Chief Jonathan Kruger, Penticton Indian Band
Disposition: Carried
Date: November 28, 2012

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NOVEMBER 28TH - NOVEMBER 29TH, 2012
VANCOUVER, B.C.

Resolution no. 2012-54

RE: Rejection of Canada's Results-Based Negotiation Approach and Questionnaire

WHEREAS Aboriginal Title and Rights flow from the land, and the historic relationship that Indigenous Peoples have had with our lands;

WHEREAS on September 4, 2012, Canada announced that it would be taking a new Results-Based Approach to Canada's Participation in Treaty and Self-Government Negotiations which would include a faster process focusing on tables with the greatest potential for success. This approach was determined without any consultation with First Nations, and calls into question federal commitments made at the January 2012 Crown-First Nation Gathering;

WHEREAS as a step within the new results-based approach, Canada intends to have all Indigenous parties negotiating treaties or agreements under the Comprehensive Claims Policy complete an "Assessment of Negotiations- Template Questionnaire" to assess the likelihood of reaching a negotiated agreement with each Indigenous group;

WHEREAS Canada will focus energy and resources on those negotiating tables it deems most likely to reach agreement, while making the decision to suspend negotiations with other tables, or perhaps to seek alternative means for achieving certainty;

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 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;

WHEREAS Canada's new approach to negotiations is based on these three factors:

- 1) **Results-Based Negotiations:** focus resources and efforts on negotiations with the best chance of concluding agreements quickly and within federal mandates

- 2) **Using tools other than treaties or agreements (such as economic development opportunities or sector specific agreements)**
- 3) **Speeding up Federal Mandating Processes;**

WHEREAS the approach that Canada is taking in negotiations follows a seeming retreat by Canadian courts from principles of recognition and reconciliation. Further, this process seeks to divide our communities as letters were sent to chiefs and not negotiators;

WHEREAS usual negotiating frameworks do not make sense in the context of constitutionally protected Aboriginal Title, Rights, and Treaty Rights. These rights are not mere benefits that can be negotiated for, they are core features of cultural identity and survival;

WHEREAS Indigenous Nations outside of the BC Treaty Commission (BCTC) process have been ignored and are expressly excluded from any consultation about the impact of agreements being negotiated within the BCTC process on their Aboriginal Title and Rights;

WHEREAS over the years, the UBCIC and its member Nations and communities have forwarded repeated proposals, petitions, statements and resolutions presented to governments calling for the resolution of the Land Question, based on recognition and respect for our Aboriginal Title and Rights. In 1910, the Interior Chiefs presented a Memorial to Sir Wilfrid Laurier which closed with the demand that:

"...our land question be settled and ask that treaties be made between the government and each of our tribes... We desire that every matter of importance to each tribe be a subject of treaty, so we may have a definite understanding with the government on all questions of moment between us and them."

THEREFORE BE IT RESOLVED the UBCIC Chiefs Council strongly rejects Canada's results-based negotiations approach and questionnaire, which are not fair, independent or impartial, and which seek to compel agreement to a federal negotiating mandate that many Indigenous Peoples have rejected;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council reaffirms our position calling for the resolution of the Land Question, including recognition and respect for our Aboriginal Title and Rights, as set out in the Memorial to Sir Wilfred Laurier in 1910;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council calls on Canada to live up to the commitments it made at the January 2012 Crown-First Nation Gathering, including that the parties "commit to ensuring that federal negotiation policies reflect the principles of recognition and affirmation mandated by Section 35 of the Constitution Act, 1982 and advance certainty, expeditious resolution, and self-sufficiency";

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council directs the UBCIC Executive to table this resolution at the AFN Special Chiefs Assembly in December, 2012;

THEREFORE BE IT FINALLY RESOLVED the UBCIC Chiefs Council as NGO in concert with the AFN National Chief, invite the UN Special Rapporteur on the Rights of Indigenous Peoples to inform, educate and investigate the effects and impacts of federal policies and legislation on Indigenous peoples.

Moved: Chief Ko'waintco Michel, Nooaitch Indian Band
Seconded: Kukpi7 Wayne Christian, Splatsin
Disposition: Carried
Date: November 29, 2012

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Resolution No. 2012-55

RE: Approval of the Appointment of the Seven BC First Nations Gaming Commissioners to the BC First Nations Gaming Commission

WHEREAS First Nations in BC were not consulted nor were party to the 1985 federal-provincial agreement that transferred the authority to operate gaming facilities to the provinces and retain the associated revenues;

WHEREAS First Nations in BC require more consistent and predictable funding in order to support ongoing programs, improve band capacity and infrastructure, develop effective long-range planning and pursue development opportunities for the economic, social and cultural needs of their communities in a crucial effort to combat systemic poverty;

WHEREAS First Nation communities in all other provinces enjoy the annual benefits of multi-million dollar gaming revenues, while First Nations in BC receive nothing from the over \$1.5 billion in existing BC gaming annual revenues;

WHEREAS Article 4 of the *United Nations Declaration on the Rights of Indigenous Peoples* provides that “Indigenous peoples, in exercising their right to self-determination, have the right to autonomy of self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.”

WHEREAS First Nations in BC have been discussing the issue of shared revenues and jurisdiction over gaming in British Columbia since 1993, and more diligently for the last four years as the BC First Nations Gaming Revenue Sharing Steering Committee in efforts to engage the Province in negotiations with no results, including no clear position on or response to this issue from Premier Christy Clark, thus perpetuating the injustice of denying First Nations a share of these revenues;

WHEREAS by UBCIC Resolution 2010-42, the UBCIC Chiefs-in-Assembly confirmed UBCIC’s position that BC gaming legislation does not apply to gaming activities on First Nations lands in BC and supports the establishment of the First Nations Gaming Commission;

WHEREAS by UBCIC Resolution 2010-55, the UBCIC Chiefs Council endorsed and adopted the draft Terms of Reference Framework (November 2010) for the BC First Nations Gaming Commission;

WHEREAS the Terms of Reference Framework requires the appointment of seven (7) senior and knowledgeable provincial leaders with expertise in the gaming initiative as the new FN Gaming Commissioners to manage and build this new entity;

WHEREAS as per the Terms of Reference Framework, three (3) Commissioners will be appointed, one from each of the respective Provincial First Nations Organizations:

- One (1) from the BC First Nations Summit
- One (1) from the Union of BC Indian Chiefs
- One (1) from the BC Assembly of First Nations

WHEREAS as per the Terms of Reference Framework, the remaining four (4) Commissioners will be selected from the list of former Chairs of the BC First Nations Gaming Committee based on their long-standing efforts and commitment to this initiative. The list of former Chairs to be appointed to the Commission is:

- Grand Chief Joe Hall, or alternate
- Dr. Judith Sayers, or alternate
- Chief Shane Gottfriedson, or alternate
- (Only after March 31, 2013) Chief Sophie Pierre, or alternate;

WHEREAS as per the Terms of Reference Framework, following the appointments of Commissioners, the BC First Nation Gaming Commission will establish a First Nation Gaming Advisory Council exclusively made up of external gaming professionals with expertise in gaming policy and experience in gaming regulation in other provinces.

THEREFORE BE IT RESOLVED the UBCIC Chiefs Council reiterates its full support for the BC First Nation Gaming Commission, based on the approved Terms of Reference Framework for the Commission, updated in November, 2012;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council supports the establishment of a First Nations Gaming Advisory Council made up of gaming experts from across Canada to assist and advise the BC First Nations Gaming Commission;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council as per the Terms of Reference Framework (November 2012), ratifies the interim appointment of Chief Bob Chamberlin, Kwicksutaineuk Ah-kwamish First Nation to the BC First Nations Gaming Commission to be reviewed at the next Chiefs Council meeting;

THEREFORE BE IT FINALLY RESOLVED the UBCIC Chiefs Council directs the UBCIC appointment to the BC First Nation Gaming Commission to regularly report back to the UBCIC Chiefs Council and carry out their duties under a three year term as per the Terms of Reference Framework.

Moved: Chief Maureen Chapman, Skawahlook First Nation
Seconded: Chief Glenda Campbell, Tzeachten First Nation
Disposition: Carried
Date: November 29, 2012

UNION OF B.C. INDIAN CHIEFS
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NOVEMBER 28TH - NOVEMBER 29TH, 2012
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Draft Resolution no. 2012-56

RE: Section 91(24) of the *Constitution Act, 1867*

WHEREAS section 91(24) of the *Constitution Act, 1867* provides the federal Crown with exclusive authority over Indians and lands reserved for Indians;

WHEREAS Indian reserves fall within section 91(21), and the Supreme Court of Canada has also found that those lands subject to unextinguished Aboriginal Title are section 91(24) lands;

WHEREAS the *United Nations Declaration on the Rights of Indigenous Peoples* affirms Indigenous rights to own, use, develop and control lands and resources, and requires States to give legal recognition and protection to these rights, through, *inter alia*, obtaining Indigenous Peoples' "free, prior and informed consent" before adopting legislative or administrative measures affecting Indigenous peoples and before approving any project affecting their lands and resources;

WHEREAS provinces with unextinguished Aboriginal Title, including British Columbia, face uncertainties about their ability to manage lands and resources subject to claims of Aboriginal title, since lands with such title are section 91(24) lands;

WHEREAS the Crown has a duty to consult, and where appropriate, accommodate when the Crown contemplates conduct that may adversely impact potential or established constitutionally protected Aboriginal or Treaty rights. This duty is grounded in court decisions including the Haida and Taku River decisions in 2004 and the Mikisew Cree decision in 2005, and arises from the Honour of the Crown and the Crown's relationship with Aboriginal peoples;

WHEREAS when relying on section 91(24), Canada must uphold the duty to consult, and accommodate our substantive interests based upon the outcome of consultation.

THEREFORE BE IT RESOLVED the UBCIC Chiefs Council directs the UBCIC Executive to seek resources and to seek a law firm to develop a legal opinion on Canada's legal obligations to consult and accommodate First Nations when using section 91(24) of the *Constitution Act, 1867*.

Moved: Chief Byron Louis, Okanagan Indian Band
Seconded: Chief Lucinda Phillips, Lil'wat First Nation
Disposition: TABLED
Date: November 29, 2012

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Resolution no. 2012-57

RE: New Relationship Trust Board of Directors Appointee

WHEREAS the \$100 million New Relationship Trust (NRT) was established in March 2006 by the *New Relationship Trust Act*;

WHEREAS the *New Relationship Trust Act* was amended through the *Miscellaneous Statutes Amendment Act 2012*, to extend the terms of the directors of the New Relationship Trust from two years to three years, and to implement rolling terms;

WHEREAS the Union of BC Indian Chiefs may appoint one (1) representative to the NRT Board of Directors;

WHEREAS The United Nations *Declaration on the Rights of Indigenous Peoples* states in Article 18 that "Indigenous peoples have the right to participate in decision-making in 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";

WHEREAS by Resolution 2007-03 and Resolution 2008-54, the Chiefs Council determined that candidates must be from a band who is a member of UBCIC in good standing, and an appointee will be selected by use of a secret ballot whereas an applicant with majority of votes (50% plus one of all votes cast) would be declared selected;

WHEREAS the UBCIC circulated notice seeking application for one (1) representative to the New Relationship Trust Board of Directors, for a three-year term beginning December 1, 2012 to November 30, 2015;

THEREFORE BE IT RESOLVED that the UBCIC Chiefs Council appoints George Saddleman, Upper Nicola Indian Band, to serve as the UBCIC representative to the New Relationship Trust Board of Directors for the three-year term beginning December 1, 2012 to November 30, 2015;

THEREFORE BE IT FINALLY RESOLVED the UBCIC Chiefs Council asks that George Saddleman, Upper Nicola Indian Band, provide updates to the UBCIC Chiefs Council as deemed necessary.

Moved: Chief Ko'waintco Michel, Nooaitch Indian Band
Seconded: Chief Maureen Chapman, Skawahlook First Nation
Disposition: Carried
Date: November 29, 2012

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UNION OF B.C. INDIAN CHIEFS
CHIEFS COUNCIL
NOVEMBER 28TH - NOVEMBER 29TH, 2012
VANCOUVER, B.C.

Resolution no. 2012-58

RE: Reinstatement of Lost AANDC Funding to FNESS for Emergency Response

WHEREAS the First Nations Emergency Services Society of BC (FNESS) assists First Nations in developing and sustaining safer and healthier communities through the delivery of programs and services that include training, capacity development and emergency preparedness and response services;

WHEREAS on April 1st, 2012, Aboriginal Affairs and Northern Development Canada (AANDC) cut FNESS' emergency response funding, terminating related on-the-ground emergency management support for all First Nations communities in BC. The Regional Director General of AANDC is in the process of negotiating an agreement with Emergency Management BC (EMBC) to possibly take over the FNESS emergency management support services;

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

Article 5: Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

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 due to the April 1 funding cuts to FNESS, First Nations currently face a huge gap in emergency response services;

WHEREAS on November 13, 2009, the UBCIC, as part of the First Nations Leadership Council (FNLC), entered into a *Declaration & Protocol of Recognition, Support, Cooperation and Coordination* with FNESS, as directed by Resolution 2009-39;

WHEREAS FNESS is governed by a First Nations Board of Directors, who themselves are community members of First Nations in BC, and FNESS strives to work directly with communities while taking into account the unique circumstances they face. If the programs are taken over by EMBC, they will not be managed by First Nations, but by the Province, which will result in reduced access for First Nations, and less culturally-specific operations.

THEREFORE BE IT RESOLVED the UBCIC Chiefs Council recognizes that the First Nations Emergency Services Society (FNESS) is governed by a First Nations Board of Directors, and supports FNESS in providing emergency response services to First Nations;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council directs the UBCIC Executive to send a letter to the Regional Director of Aboriginal Affairs and Northern Development Canada (AANDC) advocating for reinstatement of funding to FNESS for its on-the-ground emergency response work, rather than shifting the funding to Emergency Management BC (EMBC) to take the program over;

THEREFORE BE IT FINALLY RESOLVED the UBCIC Chiefs Council encourages individual communities to provide written support to the Regional Director of AANDC for FNESS' emergency response programs for First Nations, and advocating reinstatement of lost funding for emergency response work.

Moved: Kukpi7 Judy Wilson, Neskonlith Indian Band
Seconded: Chief Kevin Whitney, T'it'q'et First Nation
Disposition: Carried
Date: November 29, 2012

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UNION OF B.C. INDIAN CHIEFS
CHIEFS COUNCIL
NOVEMBER 28TH - NOVEMBER 29TH, 2012
VANCOUVER, B.C.

Resolution no. 2012-59

RE: Canada-China Foreign Investment Promotion and Protection Agreement

WHEREAS the Crown has a duty to consult, and where appropriate, accommodate when the Crown contemplates conduct that may adversely impact potential or established constitutionally protected Aboriginal or Treaty rights. This duty is grounded in court decisions including the Haida and Taku River decisions in 2004 and the Mikisew Cree decision in 2005, and arises from the Honour of the Crown and the Crown's relationship with Aboriginal peoples;

WHEREAS through Resolution 2008-03, the UBCIC Chiefs Council ratified the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) and called on Canada to immediately endorse the UNDRIP and to work in partnership with Indigenous Peoples in Canada. Both the Government of Canada and the Peoples Republic of China subsequently endorsed the UNDRIP;

WHEREAS the UNDRIP states at Article 19: "States shall consult and cooperate in good faith with the indigenous peoples concerned...in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them"; and also states at Article 32: "States shall consult and cooperate in good faith with the indigenous peoples concerned...in order to obtain their free, prior and informed consent prior to the approval of any project affecting their land or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources";

WHEREAS on September 9, 2012 Prime Minister Harper and Chinese President Hu Jintao witnessed the signing of the Canada-China Foreign Investment Promotion and Protection Agreement (FIPPA) after a private one-on-one meeting on the margins of the annual Asia Pacific Economic Co-operation Summit;

WHEREAS on September 26, 2012 the FIPPA was tabled in the House of Commons. Although it was able to come into effect on October 31, 2012, it has not yet been ratified by Parliament;

WHEREAS First Nations across Canada have expressed their concerns and opposition to the FIPPA (as documented through letters) and these concerns include:

- a. Expropriation of federal Crown Lands including reserve lands, Aboriginal title lands and Treaty lands;
- b. Impact on First Nation Aboriginal and Treaty rights including impact on outstanding land claims, existing Treaty Land Entitlement Agreements and unresolved related claims and interests, and;

potential deregulation and removal of Environmental protection;

WHEREAS contrary to the UNDRIP and Canada's stated position, there was no consultation with First Nations in the drafting of the FIPPA, and the FIPPA contains no express provision that protects Aboriginal Title, Rights and Treaty Rights.

WHEREAS First Nations have constitutionally protected Aboriginal and treaty rights and standing as rights holders putting them in a unique position to challenge FIPPA. Possible challenges could be based on the violation of the duty to consult First Nations, which in some cases is directly prescribed in agreements requiring the federal government to consult regarding such measures which might negatively impact indigenous rights.

THEREFORE BE IT RESOLVED the UBCIC Chiefs Council calls on the federal government to ensure that Canada fulfills its duty to consult and accommodate with First Nations on the Canada-China Foreign Investment Promotion and Protection Agreement (FIPPA) consistent with the principles of Free, Prior and Informed Consent as identified in Article 19 of the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP);

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council directs the UBCIC Executive to work with like-minded organizations including the Assembly of First Nations to develop a legal analysis of FIPPA and its impact on First Nations including:

- a. Impact on First Nation Aboriginal Title, Rights and Treaty Rights including impact on:
 - i. Existing Treaties, outstanding Treaty claims and interests, and traditional territories and
 - ii. existing Treaty Land Entitlement Agreements and unresolved related claims and interests.
 - iii. current and future land claim agreements, including specific claims, comprehensive claims and other land related claims
- b. its impact on Natural Resources Transfer Agreements and impact benefit agreements;
- c. its impact on treaties and arrangements, and other land or resource related agreements; and
- d. national and international remedies, including a potential Reference Case to the Supreme Court of Canada;

THEREFORE BE IT FURTHER RESOLVED that the UBCIC Chiefs Council encourages and supports First Nations who are exploring legal avenues to challenge the Canada- China FIPPA; and calls on First Nations, national organizations, unions, and concerned Canadians to support such legal action by First Nations by any means possible;

THEREFORE BE IT FINALLY RESOLVED the UBCIC Chiefs Council directs the UBCIC Executive to engage with the official opposition and other federal parties to ensure their opposition to the FIPPA includes a commitment to Aboriginal Title, Rights and Treaty Rights and to free, prior and informed consent, including at a minimum the duty to meaningfully consult and accommodate.

Moved: Chief Art Adolph, Xaxli'p First Nation
Seconded: Brenda Sayers, Hupacasath First Nation (Proxy)
Disposition: Carried
Date: November 29, 2012

**UNION OF B.C. INDIAN CHIEFS
CHIEFS COUNCIL
NOVEMBER 28TH - NOVEMBER 29TH, 2012
VANCOUVER, B.C.**

Draft Resolution no. 2012-60

RE: Support For A New Approach Toward Active Measures

WHEREAS efforts have been made to increase the focus of Active Measures in all regions since Aboriginal Affairs & Northern Development Canada (AANDC) received authority in 2003 to adopt such an approach;

WHEREAS the focus of the Active Measures program is to increase program integration with other government departments, to invest in welfare-to-work initiatives to decrease income support dependency and to increase the employability of eligible income assistance clients;

WHEREAS an Active Measures Working Group has been established by the British Columbia Region of AANDC with representation from First Nations Organizations such as the First Nations Social Development Society (FNSDS), First Nations Education Steering Committee (FNESC), and others to support First Nations in the investment in welfare-to-work initiatives;

WHEREAS AANDC has partnered with the provincial Ministry of Advanced Education in the development and implementation of the Aboriginal Community-Based Delivery Partnership Program (2012 – 2014) to provide for community-based delivery of training and education with a focus on youth aged 19 to 24;

WHEREAS AANDC has provided Active Measures Support Funding through the Aboriginal Community-Based Delivery Partnership Program to support participating First Nation communities and their Income Assistance clients;

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

Article 21:

1. Indigenous People 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.
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 of and special needs of indigenous elders, women, youth, children and persons with disabilities;

WHEREAS since 2006, the First Nations Social Development Society (FNSDS) has worked directly with AANDC to support First Nations in the delivery of their Income Assistance Programs including Active Measures.

THEREFORE BE IT RESOLVED the UBCIC Chiefs Council recognizes that the First Nations Social Development Society (FNSDS) is working towards advancing and promoting the Aboriginal Affairs and Northern Development Canada (AANDC) Active Measures initiatives in communities to increase the employability of eligible income assistance clients;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council emphasizes that the British Columbia region is unique in the diversity of First Nations, and respects the authority of each First Nation to determine whether Active Measures initiatives are appropriate;

THEREFORE BE IT FINALLY RESOLVED the UBCIC Chiefs Council recognizes the development and implementation of AANDC's Active Measures as part of AANDC's Aboriginal Community-Based Delivery Partnership Program.

Moved: Chief Kevin Whitney, T'it'q'et First Nation
Seconded: Chief Art Adolph, Xaxli'p First Nation
Disposition: TABLED
Date: November 29, 2012

**UNION OF B.C. INDIAN CHIEFS
CHIEFS COUNCIL
NOVEMBER 28TH - NOVEMBER 29TH, 2012
VANCOUVER, B.C.**

Draft Resolution no. 2012-61

RE: Support For The First Nations Social Development Society

WHEREAS the First Nations Social Development Society (FNSDS) was formed in 2006 with a mandate to promote and be a catalyst for positive social change in BC First Nations communities with the ultimate goal of assisting First Nations towards self-sustainability. The FNSDS is a policy advocate for First Nations and a policy development support organization to assist BC First Nations in developing policies and procedures that will better meet the needs of BC First Nations in the area of Social Development on-reserve;

WHEREAS the First Nations Social Development Society (FNSDS) works directly with Aboriginal Affairs & Northern Development Canada (AANDC) to influence and implement Income Assistance Programs and Active Measures Programs in order to improve the effectiveness of Federal Government programs in improving the welfare of First Nations individuals on reserve;

WHEREAS the FNSDS also works with the Provincial Government to increase awareness of First Nation social development issues, to help resolve policy conflict and to assist in the transition of First Nation workers towards employment through its participation in quarterly Tripartite Meetings with the B.C. Ministry of Social Development and AANDC;

WHEREAS the FNSDS works with other First Nations organizations such the First Nations Education Steering Committee (FNESC) and others, to promote the coordination of policies and programs for education, training, and transition to employment through the Active Measures Working Group which has been established by the British Columbia Region of AANDC with representation from First Nations Organizations;

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

Article 23: Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing, and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

WHEREAS the work of the FNSDS would benefit greatly from sustained political support to help influence the other government bodies it works with for policy and program improvements and to influence program adoption and movement toward self-sustainability on-reserve;

THEREFORE BE IT RESOLVED the UBCIC Chiefs Council fully supports the continued work of the First Nations Social Development Society (FNSDS) in their efforts towards improving and advancing social development policy initiatives on-reserve and in improving the welfare of individuals on reserve, and requests that the First Nations Social Development Society demonstrate independence from the Federal Government and accountability to First Nations in BC;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council fully supports the continued work of the First Nations Social Development Society (FNSDS) in their efforts towards improving and revising Shelter Policy on-reserve, recognizing and working with First Nations and the UBCIC Executive who are carrying out UBCIC Resolution 2012-41 “Advancing Revisions to AANDC Shelter Policy 5.4”;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council directs the First Nations Social Development Society to inform First Nations in a proactive manner about any intended changes to the Social Development Policy that the Federal Government is going to implement;

THEREFORE BE IT FINALLY RESOLVED the UBCIC Chiefs Council directs the First Nations Social Development Society to advocate for First Nations in BC who do not fit or benefit from changes that the Federal Government makes to meet its own needs and budgetary requirements.

Moved: Chief Kevin Whitney, T'it'q'et First Nation
Seconded: Chief Art Adolph, Xaxli'p Creek First Nation
Disposition: TABLED
Date: November 29, 2012

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NOVEMBER 28TH - NOVEMBER 29TH, 2012
VANCOUVER, B.C.

Resolution no. 2012-62

RE: Support for First Nations Forest Training Partnership

WHEREAS the Indigenous Nations have an inherent right to self-determination including jurisdiction and the stewardship of their respective territories, and we own our forest resources;

WHEREAS First Nations hold a special and important place in relation to the management of, and benefit from, forest resources in British Columbia. First Nations directly hold a large proportion of British Columbia's forest tenure and have increasing interest in the future through government policy, the resolution of land claims and partnerships with industry;

WHEREAS it is recognized that there is a need to provide greatly expanded First Nations capacity in forest management expertise, technical skills and business training, along with a desire from industry to form working partnerships with First Nations while addressing an increasing demand for forest sector workers;

WHEREAS the *United Nations Declaration on the Rights of Indigenous Peoples* sets out in Article 26(2) 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, as well as those which they have otherwise acquired";

WHEREAS the British Columbia First Nations Forestry Council has successfully developed a pilot delivery of a First Nations Forestry Training Partnership in concert with government seed money and in coordination with the British Columbia forest sector.

THEREFORE BE IT RESOLVED the UBCIC Chiefs Council fully supports the BC First Nations Forestry Council (FNFC) in its objective to establish a sustained and expanded delivery of the First Nations Forestry Training Partnership through the acquisition of base ("core") funding for the Program;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council supports the FNFC in actively seeking government and industry funding sources in this regard to establish working partnerships with government and industry to successfully delivery the Partnership with base support over a 6-8 year horizon;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council directs the UBCIC Executive to urge the federal and provincial governments to proactively coordinate and provide funding for First Nations Forestry Training Partnership through the FNFC;

THEREFORE BE IT FINALLY RESOLVED the UBCIC Chiefs Council directs the UBCIC Executive and staff to work with the FNFC, its partners, and other First Nations organizations, to strongly advocate for the advancement of the Forestry Training Partnership, expanding from this year's pilot delivery of 6 First Nations students, toward a 2013 fall intake of 50-100 First Nations forestry students across British Columbia.

Moved: Chief Maureen Chapman, Skawahlook First Nation
Seconded: Chief Lucinda Phillips, Lil'wat First Nation
Disposition: Carried
Date: November 29, 2012

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UNION OF B.C. INDIAN CHIEFS
CHIEFS COUNCIL
NOVEMBER 28TH - NOVEMBER 29TH, 2012
VANCOUVER, B.C.

Resolution no. 2012-63

RE: Support of First Nations' Rights of International Engagement

WHEREAS we as Indigenous Peoples and as First Nations define ourselves individually and collectively, and as bodies of sovereign peoples sharing common religions, cultures, languages, or inherited conditions of life;

WHEREAS we recognize and support the recalling that peoples of all nations from ancient times have recognized the benefits of diplomatic intercourse and the status of diplomatic agents;

WHEREAS we have and continue to practice our inherent Rights to openly engage in domestic and international processes and proceedings which are part of a multi-faceted and interconnected strategy that we Indigenous Peoples and as First Nations have historically and contemporarily practiced to promote, preserve and protect our political and legal existence as Nations and our way of life as distinct peoples;

WHEREAS we recognize and support the purpose and practices of diplomatic intercourse in the maintenance of international peace and security, and the promotion of friendly relations historically amongst Indigenous Peoples and amongst modern nations of world;

WHEREAS the *United Nations Declaration on the Rights of Indigenous Peoples* states in Article 3 that "Indigenous peoples have the right to self-determination. By virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development";

WHEREAS we believe that an international convention on diplomatic intercourse, privileges and immunities has historically and would continue to contribute to the development of friendly relations amongst Indigenous Peoples and nations, irrespective of their differing constitutional and social systems;

WHEREAS we recognize that the purpose of such privileges and immunities is not to benefit individuals but to ensure the efficient performance of the functions of diplomatic missions as representatives of the

socio-economic goals, aspirations and interests as Indigenous Peoples as it is with contemporary Nation States;

WHEREAS the Union of BC Indian Chiefs (UBCIC) in practice and purpose is an international organization representing a host of Indigenous Nations and was developed to achieve an order of peace and justice, to promote First Nations solidarity, to strengthen our collaboration, and to collectively defend our inherent sovereignty, territorial integrity, and our independence as Indigenous Peoples commonly referred as First Nations.

THEREFORE BE IT RESOLVED the UBCIC Chiefs Council directs the UBCIC Executive to seek resources to develop appropriate mechanisms for our Nations to engage in domestic and international processes to promote Indigenous laws, and preserve and protect our political and legal existence as Nations and our way of life as distinct peoples.

Moved: Chief Byron Louis, Okanagan Indian Band
Seconded: Chief Maureen Chapman, Skawahlook First Nation
Disposition: Carried
Date: November 29, 2012

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UNION OF B.C. INDIAN CHIEFS CHIEFS COUNCIL NOVEMBER 28TH - NOVEMBER 29TH, 2012 VANCOUVER, B.C.

Resolution no. 2012-64

RE: UBCIC Active Members Terms of Reference

WHEREAS the Union of BC Indian Chiefs' (UBCIC) Constitution and By-Laws state:

I (a)(ii) To reflect the wisdom of our past generations and our collective obligations to future generations, the following will be elected as Active Members of the U.B.C.I.C.:

- A Women's Representative who is a woman from one of the Indian Nations of British Columbia;
- An Elder's Representative who is at least 60 years old; and
- A Youth Representative between the ages of 19 and 30 years old.

WHEREAS the UBCIC Constitution and By-Laws set out the election process and term of Active Members;

WHEREAS the *United Nations Declaration on the Rights of Indigenous Peoples* states in Article 5 that "Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State";

WHEREAS the UBCIC Active Members have brought a draft "Terms of Reference for UBCIC Active Members," (attached) to the UBCIC Chiefs Council for consideration, which further clarifies the goals, roles and responsibilities of the Active Members.

THEREFORE BE IT RESOLVED the UBCIC Chiefs Council endorses the attached draft Terms of Reference for UBCIC Active Members;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council directs the Active Members to provide regular reports to the UBCIC Chiefs Council as set out in the draft Terms of Reference.

Moved: Chief Ko'waintco Michel, Nooaitch Indian Band
Seconded: Chief Glenda Campbell, Tzeachten First Nation
Disposition: Carried
Date: November 29, 2012

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TERMS OF REFERENCE

UBCIC ACTIVE MEMBERS

Mandate

To provide direction to the Union of BC Indian Chiefs (UBCIC) in the areas of women, elders and youth.

Purpose:

The Union of BC Indian Chiefs' (UBCIC) Constitution and By-Laws state:

I (a)(ii) To reflect the wisdom of our past generations and our collective obligations to future generations, the following will be elected as Active Members of the U.B.C.I.C.:

- A Women's Representative who is a woman from one of the Indian Nations of British Columbia;
- An Elder's Representative who is at least 60 years old; and
- A Youth Representative between the ages of 19 and 30 years old.

Active Members must be from a community which is a Full Member of the U.B.C.I.C. and knowledgeable about the Aboriginal Title, Rights and Treaty Rights Mandate of the U.B.C.I.C.

Goals

- Be involved with the UBCIC by participating in related working groups or committees as struck by the UBCIC Chiefs Council.
- Support and work with regional, like-minded initiatives.
- Build positive working relationships with other individuals, organizations, communities, and governments working on related issues.

As per Section IV(g) of the UBCIC Constitution and By-Laws, Active Members may have their expenses for attending meetings of the Chiefs' Council defrayed by the U.B.C.I.C., but otherwise they shall receive no remuneration for their service as members of Chiefs' Council. Any other circumstances where Active Members are seeking funding for activities related to their positions will require case-by-case review and approval by the UBCIC Executive Director and will be subject to available resources.

Role and Responsibilities

The UBCIC Constitution and By-Laws set out:

VII (d) Each Full and Active Member in good standing of the U.B.C.I.C. shall be entitled to participate in, and vote, at meetings of the U.B.C.I.C.

An Active member may not appoint a delegate to act in their place at a Chiefs Council meeting, Annual General Assembly, or Special General meeting. Additionally, an Active Member may not proxy their vote.

Additionally, Active Members are responsible to:

1. Provide advice to the Union of BC Indian Chiefs to ensure that the perspectives of women, elders and youth (as conveyed by the Active Member elected in each area) are considered and included in the work and activities undertaken by the Union of BC Indian Chiefs.
2. Remain up to date on key issues impacting women, elders and youth (respective to the Active Member elected in each area).
3. Maintain a progress report on related activities.

Reporting

Active Members will provide a yearly report to the UBCIC Chiefs Council at the Annual General Assembly.

Communication

Active Members may request time to present updates to the UBCIC Chiefs Council at all UBCIC quarterly meetings. Active Members may request circulation of related materials to the UBCIC Chiefs Council.

Conflict of Interest

Active Members must comply with the Union of B.C. Indian Chiefs Conflict of Interest and Ethics Policy, which was adopted by the UBCIC Chiefs-in-Assembly through Resolution 2010-24.

Election and Term

The UBCIC Constitution and By-Laws state:

VIII (b)(i) The Vice-President, Secretary-Treasurer and Active Members will be elected in a secret ballot by simple majority vote (50% of all votes, plus one) of all Full Members in good standing present at the next Chiefs' Council meeting following the election of the President, and will serve for a concurrent term with the President.

(c) Active and Honorary Members, appointed or elected according to these By-Laws, are deemed in good standing and not required to pay an annual membership fee.

Recall

As per Section VI of the UBCIC Constitution and By-Laws, Active Members may be recalled by Chiefs' Council for: (1) failing to perform their duties as outlined in the By-Laws; (2) failing to attend at least three consecutive Chiefs' Council meetings, unless they have a valid medical reason or were attending to the business of the U.B.C.I.C.; or, (3) being the subject of criminal charges (provided that this does not include activities which are done in furtherance of Aboriginal Title, Rights and Treaty Rights). The specific process for recall is set out in the Constitution and By-Laws, and Active Members are bound by this process.

Endorsement and Amendment

These Terms of Reference are endorsed by the UBCIC Chiefs Council through Resolution 2012-64, November 29, 2012. Any amendments to these Terms of Reference must be made through resolution by the UBCIC Chiefs Council.

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UNION OF B.C. INDIAN CHIEFS
CHIEFS COUNCIL
NOVEMBER 28TH- NOVEMBER 29TH, 2012
VANCOUVER, B.C.

Resolution no. 2012-65

RE: Support for Cohen Commission Recommendations

WHEREAS wild Pacific salmon are integral to the culture, well-being, and livelihood of BC First Nations people;

WHEREAS UBCIC Resolution 2008-19 calls for the UBCIC Chiefs Council to work with First Nations to conserve wild salmon stocks and advocate for and support the recovery and restoration of wild salmon stocks;

WHEREAS UBCIC Resolution 2012-19 reaffirms UBCIC's role to strongly advocate for Aboriginal Title, Rights and Treaty Rights with respect to fisheries and aquaculture, as mandated through existing resolutions;

WHEREAS the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) provides that:

Article 26: "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...";

Article 29: that "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 on October 31, 2012, Commissioner Cohen released his report and recommendations into the Decline of Sockeye Salmon in the Fraser River;

WHEREAS Commissioner Cohen recommended a number of changes to the Federal Department of Fisheries and Oceans policies, practices and management in relation to the sustainability of the Fraser River Sockeye Fishery;

WHEREAS Commissioner Cohen found that the cause of long-term decline of the Fraser River Sockeye Salmon and the poor return in 2009 could not be attributed to one cause, rather cumulative impacts from multiple stressors in the environment must be considered.

THEREFORE BE IT RESOLVED the UBCIC Chiefs Council fully supports Commissioner Cohen's recommendations with respect to the decline of sockeye salmon in the Fraser River;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council calls on the Provincial Government, Government of Canada and the Department of Fisheries and Oceans to make the necessary investments for the protection and conservation of wild salmon;

THEREFORE BE IT FINALLY RESOLVED the UBCIC Chiefs Council calls on the Provincial Government, Government of Canada and the Department of Fisheries and Oceans to immediately implement Commissioner Cohen's recommendations.

Moved: Chief Ko'waintco Michel, Nooaitch Indian Band
Seconded: Chief Jonathan Kruger, Lower Similkameen Band (Proxy)
Disposition: Carried
Date: November 29, 2012

OUR LAND IS OUR FUTURE

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UNION OF B.C. INDIAN CHIEFS
CHIEFS COUNCIL
NOVEMBER 28TH - NOVEMBER 29TH, 2012
VANCOUVER, B.C.

Resolution no. 2012-66

RE: UBCIC Meeting Schedule for 2013

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 2013 calendar year.

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

- February 27-28
- May 29-30
- September 11, 12, 13 (45th Annual General Assembly)
- November 27-28

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 Hugh Braker, Tseshah First Nation
Seconded: Chief Lucinda Phillips, Lil'wat First Nation
Disposition: Carried
Date: November 29, 2012

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UNION OF B.C. INDIAN CHIEFS
CHIEFS COUNCIL
NOVEMBER 28TH- NOVEMBER 29TH, 2012
VANCOUVER, B.C.

Resolution no. 2012-67

RE: Support for Fort Nelson First Nation's Call for a Moratorium on Water Licenses

WHEREAS shale gas development is rapidly expanding on First Nations' territories throughout British Columbia;

WHEREAS First Nations have constitutionally protected Aboriginal Title, Rights and Treaty Rights to ownership and jurisdiction of our lands and natural resources, as recognized and affirmed by section 35(1) of the Constitution Act, 1982 and shale gas developments on First Nations' traditional territories in British Columbia adversely impact these rights;

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

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 [and] Indigenous peoples shall have the right to participate in this process";

WHEREAS First Nations continue to voice serious concerns regarding the health and safety of community members, air quality, and land and water resources resulting from shale gas developments;

WHEREAS shale gas developments – including but not limited to well sites, hydraulically fractured wells, gas and water pipelines, drilling waste disposal, forest clearances, borrow pits and water usage-continue to occur either without adequate consultation or in some cases (notably water assignments) with no consultation;

WHEREAS in November 2012, the BC government is poised to issue 20 long-term water licenses impacting on trillions of litres of fresh water in North East British Columbia to oil and gas companies for hydraulic fracturing and “deep oilfield injection” under the BC *Water Act*;

WHEREAS First Nations in BC, and Fort Nelson First Nation in particular, have expressed grave concerns regarding the infringements and negative impacts of these licenses on their Aboriginal Title, Rights and Treaty Rights, and on the land and waters themselves;

WHEREAS First Nations in BC are concerned that very little traditional and scientific data exists in order to understand the cumulative effects of water loss and contamination in the traditional territories of British Columbia First Nations due to hydraulic fracturing processes.

THEREFORE BE IT RESOLVED the UBCIC Chiefs Council supports Fort Nelson First Nation in their call for a moratorium on all *Water Act* licensing for hydraulic fracturing in their traditional territories until:

- Full regional baseline studies are completed in the role shale gas plays in British Columbia;
- Companies and the Province are required to submit multi-year pre-development plans that identify all proposed water sources, well sites and other proposed infrastructure prior to any development permits being applied for;
- Mutually agreed, cumulative effects and environmental assessment processes are in place to ensure that gas industry water withdrawals are capped at ecologically acceptable levels and are not leeching into other water sources;
- Culturally significant land and water resources are protected and made off-limits to industry activities;
- Industry water withdrawals and associated gas extraction activities are subject to rigorous monitoring and enforcement efforts by an independent body;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council calls on the Provincial Crown to convene a public commission of inquiry to investigate in an in-depth manner the cumulative effects of shale gas developments on the environment and public health and safety, and:

- The commission composition shall include First Nation representation and have, as part of its mandate, a policy framework that would assess and mitigate cumulative impacts on the land, air, water and Aboriginal, Title, Rights and Treaty Rights, and First Nations’ interests in territories affected by shale gas development; and,
- That such an inquiry have the power to compel witnesses to testify, be open to members of the public, be required to publicly report its findings and make recommendations on how to mitigate cumulative impacts and ensure compliance in the oil and gas industry before continuing any work processes;
- That First Nations be provided with financial resources from the Province to be meaningfully involved in the inquiry.

Moved: Chief Jonathan Kruger, Lower Similkameen Indian Band (Proxy)
Seconded: Chief Dan Manuel, Upper Nicola Indian Band
Disposition: Carried
Date: November 29, 2012

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UNION OF B.C. INDIAN CHIEFS
CHIEFS COUNCIL
NOVEMBER 28TH - NOVEMBER 29TH, 2012
VANCOUVER, B.C.

Resolution no. 2012-68

RE: Election Process for UBCIC New Relationship Trust Board of Director Appointment

THEREFORE BE IT RESOLVED in the election process for the UBCIC New Relationship Trust Board of Director appointment, the two candidates with the most votes will advance to the next ballot.

Moved: Chief Maureen Chapman, Skawahlook First Nation
Seconded: Kukpi7 Wayne Christian, Splatlin
Disposition: Carried
Date: November 29, 2012