

OUR LAND IS OUR FUTURE

UNION OF BRITISH COLUMBIA INDIAN CHIEFS

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Resolutions from UBCIC Chiefs Council, May 29-30, 2013

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UNION OF B.C. INDIAN CHIEFS
CHIEFS COUNCIL
MAY 29TH – MAY 30TH
NANAIMO, B.C.

Resolution no. 2013-15

RE: Indian Studies Support Program

WHEREAS the Indian Studies Support Program (ISSP) provides financial assistance to First Nations post-secondary institutions for the design and delivery of college or university level courses for First Nation and Inuit students, including research and development of First Nation and Inuit education;

WHEREAS for more than two decades, the ISSP in the BC Region has been successfully implemented collaboratively through AANDC BC Region and a Committee made up of regional representatives nominated by First Nations throughout BC. Together, the ISSP Committee and AANDC BC Region have worked diligently to implement the BC ISSP in an effective and fully accountable manner;

WHEREAS the *United Nations Declaration on the Rights of Indigenous Peoples* states in Article 14:

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 the BC Region ISSP Committee is committed to the following objectives:

- To promote access to quality First Nation Post-Secondary learning programs.
- To encourage the preservation and maintenance of First Nation languages and cultures.
- To support and encourage the development of accredited First Nation post-secondary programs.
- To encourage First Nations people in the development of economic and social self-reliance through education and capacity building.

- To secure consistent funding for external evaluations of programs funded by ISSP.
- To promote First Nations institutional and community capacity;

WHEREAS in spite of the serious deficiencies in funding availability, the ISSP Committee in BC Region has designed a transparent annual proposal process that provides an opportunity for all First Nations communities and post-secondary institutes to apply for funding through rigorous program and financial reporting procedures;

WHEREAS in March 2013, Aboriginal Affairs and Northern Development Canada (AANDC) unilaterally announced that, starting this fiscal year (2013-2014), the Indian Studies Support Program (ISSP) funding will now be allocated through AANDC Headquarters (HQ) rather than through AANDC Regional Offices, and that the ISSP Committee is dissolved;

WHEREAS the ISSP proposal review process in BC has already been completed for the 2013/2014 school year, with the full understanding and approval of AANDC BC Region. A re-review of applications by a national committee according to different guidelines at this time would be highly detrimental and unfair to BC First Nations communities and institutes that have already devoted scarce resources to submit proposals in response to the AANDC-approved guidelines and timelines established in the BC Region;

WHEREAS First Nations are working to build an integrated post-secondary system in BC and ISSP recipients in BC have for many years partnered with public post-secondary institutions to deliver programs. AANDC's unilateral changes part way through the process puts these and future partnerships in jeopardy;

WHEREAS AANDC must consult in a meaningful way with the BC First Nations, including the First Nations Education Steering Committee, the Indigenous Adult and Higher Learning Association, and the BC ISSP Committee, regarding the broader changes announced by AANDC.

THEREFORE BE IT RESOLVED the UBCIC Chiefs Council calls on Aboriginal Affairs and Northern Development Canada (AANDC) to:

- a) maintain and support the 2013-2014 Indian Studies Support Program guidelines for British Columbia First Nations;
- b) support the British Columbia 2013-2014 ISSP allocation process, including the adjudication and recommendations for allocation decisions; and
- c) rescind its decision to centralize ISSP in AANDC headquarters and return the ISSP decision making and funding to a BC First Nation organization to administer on behalf of BC First Nations;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council fully agrees that ISSP funding must continue to be only allocated to First Nations controlled community education programs and Indigenous Adult and Higher Learning Association Institutes in the Province of British Columbia.

Moved: Chief Harold Aljam, Coldwater Indian Band
Seconded: Chief Russell Myers Ross, Yunesit'in Government
Disposition: Carried
Date: May 30, 2013

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UNION OF B.C. INDIAN CHIEFS CHIEFS COUNCIL MAY 29TH – MAY 30TH NANAIMO, B.C.

Resolution no. 2013-16

RE: Continuation of First Nations House of Healing Program

WHEREAS the Indian Residential Schools Settlement Agreement (IRSSA) is a legally binding agreement approved in nine court jurisdictions that was meant to be a fair, just and comprehensive resolution to the Indian Residential School (IRS) legacy;

WHEREAS the IRSSA has a provision for former IRS and their families rights to health supports before, during and after the Common Experience Payment (CEP); Independent Assessment Process (IAP); Truth & Reconciliation and Commemoration activities;

WHEREAS Article 8 (2) of the *United Nations Declaration on the Rights of Indigenous Peoples* states that “States shall provide effective mechanisms for prevention of, and redress for: (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities; and ... (d) Any form of forced assimilation or integration”;

WHEREAS that due to the higher than anticipated applications to the IAP process, the adjudication of these claims is expected to extend to 2015;

WHEREAS an investigation by the monitor of the IRSSA into violations of the IRSSA and Financial Administration Act by Blott & Co & Associates and Justice Brown removed Blott & Co. from further involvement in the IAP has placed over 4,000 claimants lives at risk and require trauma treatment and additional reviews and investigations may be forthcoming;

WHEREAS due to the delays of the Truth & Reconciliation Commission (TRC), the TRC is seeking an extension to their mandate to at least 2015 in order to meet the obligations of the IRSSA;

WHEREAS the Inter Tribal Health Authority (ITHA) and its First Nations House of Healing (FNHH) program has successfully operated trauma programs and services to former IRS students for the past 13 years;

WHEREAS ITHA has received funding from the Aboriginal Healing Foundation since the year 2000 to run healing sessions for adults to address the trauma of Indian Residential School. Programs offered are: Grief & Loss, Sexual Abuse, Indian Residential School, intergenerational, anger, abandonment and Shame programs. The ITHA FNHH program is currently open nationally to First Nation, clients and currently services all of British Columbia region;

WHEREAS ITHA is set to close its doors to the FNHH program December 2013 without any potential funding partner and there will be a loss in program expertise in delivering holistic healing for our IRS survivors and their families.

THEREFORE BE IT RESOLVED the UBCIC Chiefs Council fully supports former Indian Residential School (IRS) students in the Indian Residential Schools Settlement Agreement (IRSSA) having access to culturally appropriate and qualified treatment services and programs as offered by the First Nations House of Healing (healing and trauma related);

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council directs the UBCIC Executive to collaborate with the Inter-Tribal Health Authority (ITHA) and meet immediately with Health Canada to advocate for funds for the continuation of the ITHA First Nations House of Healing programs and services;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council directs the UBCIC Executive to meet immediately with the First Nations Health Authority to ensure continuation of the ITHA First Nations House of Healing program and services beyond December 31, 2013, which is critical as BC First Nations transition to take on the full responsibilities of health services for BC First Nations;

THEREFORE BE IT FINALLY RESOLVED the UBCIC Chiefs Council directs the UBCIC Executive to continue advocacy as needed for the continuation of the First Nations House of Healing and related IRS healing and program services, as the foundation of healing and wellness within our families and community from the IRS experience.

Moved: Chief Marilyn Belleau, Esk'etemc (Proxy)
Seconded: Chief Donna Gallinger, Nicomen Indian Band
Disposition: Carried
Date: May 30, 2013

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UNION OF B.C. INDIAN CHIEFS CHIEFS COUNCIL MAY 29TH – MAY 30TH NANAIMO, B.C.

Resolution no. 2013-17

RE: Bilateral Enhanced Prevention Focused Approach Arrangements between First Nations (not Affiliated with Delegated Agencies) and AANDC

WHEREAS Aboriginal Affairs and Northern Development Canada (AANDC) is proposing a tripartite process (First Nations, First Nations Delegated Aboriginal Agencies, AANDC, and the Ministry of Children and Family Development (MCFD)) to develop the Enhanced Prevention Focused Approach (EPFA) Framework, which will guide the implementation of the EPFA;

WHEREAS by UBCIC Resolution #2010-60, the UBCIC Chiefs Council directs the UBCIC Executive to work with the FNS, the BCAFN, and the FNCFWC to collectively advocate for the EPFA funding flowing to B.C., and recognizes that all B.C. First Nations are eligible to receive prevention funding;

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 in January 2013, the FNCFWC was invited by AANDC to observe tripartite discussion on the development process for the EPFA, based on AANDC's acknowledgement that eighty-four (84) First Nations were not being represented by a Delegated Authority. Other participants at the meeting included the Directors Forum and MCFD;

WHEREAS in January 2013, an implementation structure was developed for the EPFA to include a Tripartite Steering Committee comprised of three (3) representatives from the Directors Forum, 3 from AANDC, 3 from MCFD, and 3 representing First Nations Leadership (these 3 seats are designated for leaders of First Nations who are not represented by Delegated Authorities); and a Technical Working Group to support implementation of the EPFA;

WHEREAS by UBCIC Resolution #2013-06, the UBCIC Chiefs Council fully supports the FNCFWC to advocate:

1. EPFA funding be accessible to all 203 First Nations;
2. That First Nations who are not represented by a Delegated Authority receive representation and involvement of their leadership of in the implementation of the EPFA;
3. EPFA funding be implemented by 2014/2015 or sooner;
4. EPFA funding in B.C. be equal or greater to what other provinces receive; and
5. EPFA funding be reflective of community requirements, i.e. primary, secondary and tertiary prevention models;

WHEREAS AANDC hosted a Leadership Meeting on March 14-15, 2013 to provide general information on the EPFA. The proceedings included discussion around: the EPFA; what the EPFA looks like in other provinces; evaluations of the EPFA in other provinces; and proposed implementation structure for EPFA (Tripartite Steering Committee and Technical Working Group). The Chiefs in attendance directed the FNCFWC to host a subsequent meeting to invite the eighty-four (84) First Nations not represented by a Delegated Agency to further discuss the EPFA;

WHEREAS at the meeting hosted by the FNCFWC on April 15, 2013, in Richmond, B.C. for the 84 First Nations not represented by a Delegated Agency, the Chiefs in attendance unanimously decided:

1. Not to participate in the AANDC-tabled tripartite process to implement the EPFA; the Chiefs also did not appoint a representative by virtue of this position;
2. Each First Nation not affiliated with a Delegated Agency requires a direct fiscal relationship with AANDC and the EPFA would be a program within the funding arrangement;
3. To direct the FNCFWC to participate at the technical level in advocacy and information sharing;

WHEREAS the Chiefs in attendance at the April 15, 2013 meeting directed the FNCFWC to seek action from the UBCIC, FNS, and BCAFN to:

1. Urge the federal government to develop direct fiscal arrangements with the 84 First Nations not affiliated with a Delegated Agency and that EPFA will be contained within those funding arrangements; and
2. Urge the federal government to remove the provincial government, specifically MCFD, from the EPFA process with the 84 First Nations not affiliated with a Delegated Agency.

THEREFORE BE IT RESOLVED the UBCIC Chiefs Council directs the UBCIC Executive to:

1. Urge the federal government to develop direct bilateral fiscal arrangements with the 84 First Nations not affiliated with a Delegated Agency, and that Enhanced Prevention Focus Approach (EPFA) will be contained within those funding arrangements; and
2. Urge the federal government to completely remove the provincial government, specifically MCFD, from the EPFA process with the 84 First Nations not affiliated with a Delegated Agency;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council directs the UBCIC Executive to work with the First Nations Child and Family Wellness Council (FNCFWC) to continue advocating for the 84 First Nations not affiliated with a Delegated Agency throughout the EPFA process;

THEREFORE BE IT FINALLY RESOLVED the UBCIC Chiefs Council directs the FNCFWC to report back to the UBCIC Chiefs Council on any progress regarding implementation of the EPFA.

Moved: Chief Maureen Chapman, Skawahlook First Nation
Seconded: Grand Chief Bob Pasco, Oregon Jack Creek Indian Band
Disposition: Carried
Abstention: Chief Rita Matthew, Simpcw First Nation
Date: May 30, 2013

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UNION OF B.C. INDIAN CHIEFS
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MAY 29TH – MAY 30TH
NANAIMO, B.C.

Resolution no. 2013-18

RE: First Nations Wild Salmon Alliance

WHEREAS wild Pacific salmon are integral to the culture, well-being, and livelihood of BC First Nations people, and First Nations support is critical for the conservation and protection of wild salmon and the well-being of wild salmon runs in British Columbia;

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 UBCIC Resolutions 2008-19, 2009-35 and 2009-36 confirm UBCIC’s commitment to work in solidarity with like-minded organizations and BC First Nations with respect to fisheries and aquaculture issues;

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 UBCIC Resolution 2012-36 calls for the UBCIC to advocate for the protection, conservation and safeguarding of wild salmon stocks, in particular reproduction areas;

WHEREAS there is an absence of a clear, consistent and organized First Nation voice advocating for the protection and well-being of wild salmon runs and reproduction areas;

WHEREAS the steady decline of healthy and abundant wild salmon stocks has reached a crisis point;

WHEREAS the First Nations Wild Salmon Alliance seeks to bring First Nations together to speak with a common voice for the protection and conservation of wild salmon throughout British Columbia. The First Nations Wild Salmon Alliance will work to conserve wild stocks, advocate and support recovery and restoration;

THEREFORE BE IT RESOLVED the UBCIC Chiefs Council fully supports the First Nations Wild Salmon Alliance and its effort to protect and conserve wild salmon stocks and their reproductive areas and their migratory routes;

THEREFORE BE IT FURTHER RESOLVED that the UBCIC Executive and staff work with like-minded organizations and First Nations to partner with the First Nations Wild Salmon Alliance and to contribute to a strategy for the protection and conservation of wild salmon stocks and their reproductive areas and their migratory routes.

Moved: Chief Byron Louis, Okanagan Indian Band
Seconded: Chief Clifford Lebrun, Lhatko Dene Nation
Disposition: Carried
Date: May 30, 2013

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Resolution no. 2013-19

RE: Support for Protection of the Rights and Title Inherited by First Nations through Bloodlines in Areas of Overlapping Claims or Shared Territories

WHEREAS First Nations people continuously inherit language, land and family connections through bloodlines within each family;

WHEREAS First Nations people practice a strong land tenure system, pursuant to their inherent jurisdiction and authority to make decisions over their territories;

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

Article 26: (1) Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired. (2) Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired. (3) States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

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 First Nations people will not give up their inheritance as is constitutionally protected and recognized under section 35(1) of the *Constitution Act*, 1982 which states, “The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed”;

WHEREAS in 1846, the time of contact chosen by the courts in BC, First Nations people met the tests of living in an organized society with laws of conduct and a land tenure system that are *constitutionally* protected and practiced today;

WHEREAS the Federal and Provincial Governments and some First Nations agreed to enter into treaty negotiations based on certain understandings, including recommendations set out in the June 1991 Report of the British Columbia Task Force, which became the basis for the establishment of the BC Treaty Commission (BCTC) and the treaty negotiations process, including Recommendation 8 “First Nations resolve issues related to overlapping traditional territories among themselves”;

WHEREAS the offers of land by the Province of British Columbia and the Government of Canada to one First Nation, in areas of unresolved overlapping claims is highly prejudicial to the inherited Title and Rights of the other First Nation not currently in the BC Treaty Process or at the same stage of the First Nation being offered the land;

WHEREAS the uncertainty that arises from such offers of land in circumstances of unresolved overlapping claims is that both British Columbia and Canada lack the authority:

- (a) To offer lands in circumstances of overlapping claims between First Nations, and
- (b) To make unilateral and biased decisions regarding the Title and Rights of the affected First Nations (in a consultation process);

WHEREAS in order to achieve resolution of overlapping claims/shared territory issues, First Nations, whether or not they are participating in the BC treaty negotiations process, must not be subject to, or prejudiced by unauthorized offers of land by either the Province of British Columbia or Government of Canada.

THEREFORE BE IT RESOLVED the UBCIC Chiefs Council declares that there is lack of authority within both the Provincial and Federal Governments as part of the BC Treaty Process and other agreements to transfer lands to one First Nation in circumstances of unresolved overlapping claims and/or shared territories, without the consent of the First Nations involved;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council demands that both the Provincial and Federal governments disclose immediately their policies and terms of reference for the determinations of Title and Rights in provincial and federal consultation and accommodation processes on all matters, including the BC Treaty Process;

THEREFORE BE IT FINALLY RESOLVED the UBCIC Chiefs Council directs the UBCIC Executive to immediately obtain these disclosures by both governments on or before July 31, 2013.

Moved: Chief Maureen Chapman, Skawahlook First Nation
Seconded: Chief Dan Manuel, Upper Nicola Indian Band
Disposition: Carried
Abstention: Chief Hugh Braker, Tseshah First Nation
Date: May 30, 2013

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UNION OF B.C. INDIAN CHIEFS CHIEFS COUNCIL MAY 29TH – MAY 30TH NANAIMO, B.C.

Resolution no. 2013-20

RE: First Nations Agricultural Lending in British Columbia

WHEREAS First Nations farmers in British Columbia (BC) need access to financing on terms other than those traditionally provided by the financial services industry;

WHEREAS the First Nations Agricultural Lending Association (FNALA) is an Aboriginal Capital Corporation (ACC), created in 1988, with the exclusive mandate to provide financing for agriculture and/or agriculturally related projects on and off reserve, to individuals who are Status, Non-Status, Métis and Inuit, in the Province of BC;

WHEREAS FNALA is the only ACC in BC that specializes in agriculture and is one of five provincial organizations still in existence across Canada providing loans for agriculture;

WHEREAS in addition to financing agricultural and agri-food operations for Aboriginal clientele, FNALA is also involved in core activities which are designed to increase the impact of agricultural financial operations: increasing association lending activities by general promotion to Aboriginal people about agriculture and its economic and social opportunities, and fostering and encouraging the overall economic and social well-being of Aboriginal agriculture in BC;

WHEREAS FNALA is the only private career training institute in BC exclusively focused on agriculture training services to Aboriginal and non-Aboriginal students;

WHEREAS Governments of BC and Canada need to partner with First Nations to provide alternative financing options and business support in the area of agriculture;

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.

Article 20(1): Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities;

WHEREAS In January 2013, FNALA was provided with a default notice from Aboriginal Affairs and Northern Development Canada (AANDC) based on FNALA's recapitalization contribution agreement signed in December 2008. FNALA disagrees with the 2012 findings of the Recipient Audit Report prepared by Samson & Associates on behalf of AANDC. From December 2012 to present, FNALA has attempted to seek action to rectify this default notice but to date, despite providing documented proof of loan disbursements and financially audited statements that counter the Recipient Audit findings, the default notice still remains in effect for FNALA;

WHEREAS the AANDC-issued default notice is limiting FNALA's ability to provide the agricultural lending, business and training support services that First Nations in BC have accessed since 1988 through FNALA;

WHEREAS the UBCIC has a mandate, as endorsed on September 14, 2010, 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;

WHEREAS FNALA is governed by a First Nations Board of Directors, who themselves are members of First Nations communities in BC and FNALA provides financial assistance to the First Nations agricultural sector in BC through various avenues including, but not limited to, loans, mortgages, chattel mortgages and loans, lines of credit, administration of programs and grants, and assisting clients in establishing credit.

THEREFORE BE IT RESOLVED the UBCIC Chiefs Council recognizes that the First Nations Agricultural Lending Association (FNALA) is governed by a First Nations Board of Directors and provides financial assistance to the First Nations agricultural sector in British Columbia (BC);

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council recognizes FNALA's mandate to

- (i) Promote the importance and economic potential of agriculture—including areas of agri-business to First Nations people in BC,
- (ii) Increase the capital base available to First Nations agricultural communities in BC,
- (iii) Encourage responsible and economically sound farm management that remains consistent with traditional spiritual and cultural values (i.e., environmental sustainability) and the needs of families and communities,
- (iv) Encourage First Nations youth to consider agriculture as an economically viable career opportunity, and

- (v) Encourage the development of production and business skills in BC First Nations agricultural communities;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council directs the UBCIC Executive to seek funds and have legal counsel review the default notice for the FNALA and the related Recipient Audit Report prepared by Samson & Associates on behalf of Aboriginal Affairs and Northern Development Canada;

THEREFORE BE IT FINALLY RESOLVED that should the legal review result in a recommendation of support for FNALA:

1. The UBCIC Chiefs Council directs the UBCIC Executive to send a letter to the Minister of Aboriginal Affairs and Northern Development Canada (AANDC) advocating for full recognition of FNALA as the lead First Nations agricultural lending authority in BC that is well positioned through its provincial and national acknowledgement as an innovator and economic leader in the agricultural sector;
2. The UBCIC Chiefs Council calls upon federal and provincial authorities to work cooperatively with, and provide funding for First Nations people and communities in BC administered by FNALA to develop coordinated province-wide agricultural financial assistance to the First Nations agricultural sector in BC;
3. The UBCIC Chiefs Council encourages individual First Nations communities, organizations and community members to provide written support to the Minister of AANDC for FNALA's agricultural lending programs and services for First Nations, and advocate continued funding for said program and service delivery by FNALA in BC.

Moved: Chief Harold Aljam, Coldwater Indian Band
Seconded: Erralyn Thomas, Whispering Pines/Clinton Indian Band (Proxy)
Disposition: Carried
Date: May 30, 2013

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UNION OF B.C. INDIAN CHIEFS CHIEFS COUNCIL MAY 29TH – MAY 30TH NANAIMO, B.C.

Resolution no. 2013-21

RE: Support for First Nations Leadership Council Entering into a *Declaration & Protocol of Recognition, Support, Cooperation and Coordination* with the Native Courtworker and Counselling Association of BC

WHEREAS the First Nations Leadership Council (FNLC) wishes to unite and cooperate with First Nations and First Nations/Aboriginal organizations with mandates in B.C. to coordinate political and technical strengths toward the objectives of unity and advancing First Nations inherent, inalienable right of self-determination, Aboriginal Title and Rights, and Treaty Rights, and improving the socio-economic conditions of Indigenous Peoples;

WHEREAS the *United Nations Declaration on the Rights of Indigenous Peoples* sets out 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 FNLC developed a draft template *Declaration & Protocol of Recognition, Support, Cooperation and Coordination*, to be entered into by the First Nations Leadership Council and First Nation/Aboriginal organizations with mandates in British Columbia to achieve this objective. This draft template was endorsed by the First Nations Summit Resolution #0906.08, UBCIC Resolution no. 2007-22; and the BC Assembly of First Nations Resolution 10/2007;

WHEREAS the FNLC updated the draft template *Declaration & Protocol of Recognition, Support, Cooperation and Coordination* to reflect its 2010 Terms of Reference and Accountability Framework, and to allow for the optional inclusion of a Procedural Appendix;

WHEREAS the FNLC and the Native Courtworker and Counselling Association of British Columbia wish to enter into a *Declaration & Protocol of Recognition, Support, Cooperation and Coordination*.

THEREFORE BE IT RESOLVED the UBCIC Chiefs Council supports the attached *Declaration & Protocol of Recognition, Support, Cooperation and Coordination* being entered into by the UBCIC Executive on behalf of the UBCIC Chiefs Council and as part of the First Nations Leadership Council, with the Native Courtworker and Counselling Association of British Columbia;

THEREFORE BE IT FURTHER RESOLVED that the UBCIC Chiefs Council directs the UBCIC Executive to work with the other members of the First Nations Leadership Council to execute a *Declaration & Protocol of Recognition, Support, Cooperation and Coordination* with the Native Courtworker and Counselling Association of British Columbia;

THEREFORE BE IT FINALLY RESOLVED that the UBCIC Chiefs Council directs the UBCIC Executive to work with other members of the First Nations Leadership Council and the Native Courtworker and Counselling Association of British Columbia to provide regular reports to the UBCIC Chiefs Council.

Moved: Chief Byron Louis, Okanagan Indian Band
Seconded: Chief Harold Aljam, Coldwater Indian Band
Disposition: Carried
Date: May 30, 2013

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UNION OF B.C. INDIAN CHIEFS
CHIEFS COUNCIL
MAY 29TH – MAY 30TH
NANAIMO, B.C.

Resolution no. 2013-22

RE: Support for First Nations Leadership Council Entering into a *Declaration & Protocol of Recognition, Support, Cooperation and Coordination* with the First Nations Social Development Society

WHEREAS the First Nations Leadership Council wishes to unite and cooperate with First Nations and First Nations/Aboriginal organizations with mandates in B.C. to coordinate political and technical strengths toward the objectives of unity and advancing First Nations inherent, inalienable right of self-determination, Aboriginal Title and Rights, and Treaty Rights, and improving the socio-economic conditions of Indigenous Peoples;

WHEREAS the *United Nations Declaration on the Rights of Indigenous Peoples* sets out 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 First Nations Leadership Council developed a draft template *Declaration & Protocol of Recognition, Support, Cooperation and Coordination*, to be entered into by the First Nations Leadership Council and First Nation/Aboriginal organizations with mandates in British Columbia to achieve this objective. This draft template was endorsed by the First Nations Summit Resolution #0906.08, UBCIC Resolution no. 2007-22; and the BC Assembly of First Nations Resolution 10/2007;

WHEREAS the First Nations Leadership Council updated the draft template *Declaration & Protocol of Recognition, Support, Cooperation and Coordination* to reflect its 2010 Terms of Reference and Accountability Framework, and to allow for the optional inclusion of a Procedural Appendix;

WHEREAS the First Nations Leadership Council and the First Nations Social Development Society wish to enter into a *Declaration & Protocol of Recognition, Support, Cooperation and Coordination*.

THEREFORE BE IT RESOLVED the UBCIC Chiefs Council supports the attached *Declaration & Protocol of Recognition, Support, Cooperation and Coordination* being entered into by the UBCIC Executive on behalf of the UBCIC Chiefs Council and as part of the First Nations Leadership Council, with the First Nations Social Development Society, incorporating changes as per the *Declaration & Protocol of Recognition, Support, Cooperation and Coordination* being entered into by the UBCIC Executive on behalf of the UBCIC Chiefs Council and as part of the First Nations Leadership Council with the Native Courtworker and Counselling Association of British Columbia;

THEREFORE BE IT FURTHER RESOLVED that the UBCIC Chiefs Council directs the UBCIC Executive to work with the other members of the First Nations Leadership Council to execute a *Declaration & Protocol of Recognition, Support, Cooperation and Coordination* with the First Nations Social Development Society;

THEREFORE BE IT FINALLY RESOLVED that the UBCIC Chiefs Council directs the UBCIC Executive to work with other members of the First Nations Leadership Council and the First Nations Social Development Society to provide regular reports to the UBCIC Chiefs Council.

Moved: Chief Maureen Chapman, Skawahlook First Nation

Seconded: Chief Harold Aljam, Coldwater Indian Band

Disposition: Carried

Date: May 30, 2013

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UNION OF B.C. INDIAN CHIEFS CHIEFS COUNCIL MAY 29TH – MAY 30TH NANAIMO, B.C.

Resolution no. 2013-23

RE: Application for Intervenor Status – *William* Aboriginal Title Appeal

WHEREAS the Tsilhqot'in are appealing the British Columbia Court of Appeal's decision in *Roger William, on his own behalf and on behalf of all other members of the Xenigwet'in First Nations Government and on behalf of all other members of the Tsilhqot'in Nation v. Her Majesty the Queen in Right of the Province of British Columbia, The Regional Manager of the Cariboo Forest Region and The Attorney General of Canada* Supreme Court of Canada Court File No. 34986;

WHEREAS the British Columbia Court of Appeal decided that Aboriginal Title must be proven on a site-specific basis. A Title site may be defined by a particular occupancy of the land (e.g. village sites, enclosed or cultivated fields) or on the basis that definite tracts of land were the subject of intensive use (specific hunting, fishing, gathering, or spiritual sites). In all cases, however, Aboriginal Title can only be proven over a definite tract of land the boundaries of which are reasonably capable of definition;

WHEREAS Article 26(2) of the *United Nations Declaration on the Rights of Indigenous Peoples* states 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 Court of Appeal decision is contrary to the fundamental principles of the common law going back as far as the Royal Proclamation of 1763; it is contrary to the Constitution and to the Court's jurisprudence interpreting section 35; it is contrary to international law and the framework for the human rights of Indigenous peoples endorsed by Canada, and it would not support honourable negotiations;

WHEREAS UBCIC recognizes the extreme importance of this case in setting a precedent in the law;

WHEREAS the UBCIC is an organization representing a large number of First Nations in British Columbia with diverse concepts of land ownership, Aboriginal Title and Aboriginal Rights which will all be affected by this decision and therefore the UBCIC is able to make submissions to the Court that offer a unique perspective to the Court and will be helpful to the Court;

WHEREAS by Resolution 2012-33, the UBCIC Chiefs-in-Assembly also fully supports the Tsilhqot'in Nation in efforts to overturn the decision of the British Columbia Court of Appeal and to denounce the colonial reasoning underpinning this judgment, including in applying for leave to appeal the British Columbia Court of Appeal's ruling on Aboriginal Title to the Supreme Court of Canada.

THEREFORE BE IT RESOLVED the UBCIC Chiefs Council directs the UBCIC Executive to seek resources and to apply for Intervenor Status in the appeal of the British Columbia Court of Appeal's decision in the *William* Aboriginal Title Appeal and to consider pursuing an alliance in doing so with the *Browns Creek/Jules* litigants and/or like-minded First Nations organizations.

Moved: Chief Byron Louis, Okanagan Indian Band
Seconded: Chief Dan Manuel, Upper Nicola Indian Band
Disposition: Carried
Date: May 30, 2013

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UNION OF B.C. INDIAN CHIEFS
CHIEFS COUNCIL
MAY 29TH – MAY 30TH
NANAIMO, B.C.

Resolution no. 2013-24

**RE: UBCIC Support for the Kitselas First Nation in the Judicial Review
of the Specific Claims Tribunal Decision**

WHEREAS on October 16, 2008 the Kitselas First Nation filed a specific claim with the Minister of Aboriginal and Northern Development Canada regarding its unreserved (10 acre) village site adjacent to Kitselas Indian Reserve No. 1;

WHEREAS on October 21, 2009 Canada rejected the specific claim for negotiation, and on September 29, 2011, the Kitselas First Nation filed its rejected specific claim with the Specific Claims Tribunal;

WHEREAS in the interest of Crown-First Nations reconciliation, the Specific Claims Tribunal (“Tribunal”) was established by the Specific Claims Tribunal Act as an independent body mandated to make binding decisions to resolve specific claims in a timely manner where claims are rejected for negotiation or where negotiations fail;

WHEREAS in February 2013, the Tribunal found that Canada had a fiduciary duty to ensure the village site was allotted as a reserve in 1891 and the Kitselas First Nation successfully established that Canada breached the legal obligations of the Crown;

WHEREAS on March 22, 2013, Canada challenged the Tribunal’s decision at the Federal Court of Appeal by applying for judicial review of the Tribunal’s decision;

WHEREAS the Kitselas First Nation will receive no financial support from Canada for its necessary participation in this judicial review;

WHEREAS the outcome of this review will profoundly impact all First Nations in British Columbia, and the prospects for a meaningful and lasting reconciliation with the Crown since the Court’s decision will be binding on the Tribunal in its consideration of all future claims by First Nations. If Canada is able to

minimize its responsibilities as a fiduciary, it will succeed in limiting the scope and level of redress and compensation it owes First Nations with specific claims across Canada;

WHEREAS Canada is entirely and unequivocally undermining the stated objectives of resolving specific claims in an impartial, fair and timely manner to promote meaningful reconciliation between First Nations and the Crown by challenging the legislated authority of the Tribunal to determine questions of law and fact and make binding decisions in accordance with principles of justice;

WHEREAS UBCIC Resolutions 2008-20, 2008-42 2009-15, 2009-62, 2010-07, 2010-58, 2011-40 , 2012-07, 2012-28, 2012-52, 2012-53 and 2012-43 support reform that will bring about the fair, just and timely resolution of specific claims;

WHEREAS UBCIC is uniquely situated to bring a broad and necessary perspective to participate in the Judicial Review of the Kitselas claim as an intervenor for the following reasons:

- UBCIC has conducted research and development for over 30 years of over 400 specific claims for BC First Nations;
- UBCIC has a long history of advocacy for specific claims reform on community, provincial, national and international levels, including joining First Nations nationally to call for independent decision-making body and a non-adversarial forum and process for the resolution of these historical grievances;
- UBCIC offers and unique technical and experiential perspective on specific claims specifically related to the creation of hundreds of reserves in BC;

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

Article 8(2): States shall provide effective mechanisms for prevention of, and redress for... (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;

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 then 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;

Article 26(2) Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

THEREFORE BE IT RESOLVED the UBCIC Chiefs Council fully supports the Kitselas First Nation in its efforts to reach a fair, just and timely resolution of its village site specific claim;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council recognizes the extreme importance of this proceeding in setting a precedent in the law and defining the authority and relevance of the Tribunal;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council directs the UBCIC Executive to seek the necessary resources to apply for Intervenor Status in the judicial review of the Tribunal's decision in the Kitselas village site specific claim; and

THEREFORE BE IT FINALLY RESOLVED the UBCIC Chiefs Council directs the UBCIC Executive to seek partnerships with like-minded organizations to jointly apply for Intervenor Status.

Moved: Chief Hugh Braker, Tseshah First Nation
Seconded: Chief Dan Manuel, Upper Nicola Indian Band
Disposition: Carried
Date: May 30, 2013

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UNION OF B.C. INDIAN CHIEFS CHIEFS COUNCIL MAY 29TH – MAY 30TH NANAIMO, B.C.

Resolution no. 2013-25

RE: Creation of UBCIC Specific Claims Working Group

WHEREAS Canada introduced the *Justice at Last* initiative in 2007 to improve previous processes for specific claims resolution by:

1. Eliminating the Specific Claims backlog;
2. Bringing about the fair and timely resolution of specific claims through meaningful negotiations and mediation;
3. Eliminating Canada's conflict of interest;

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 Canada is not resolving specific claims through negotiation, mediation and acknowledgement of and compensation for past wrongs; rather, Canada is quickly processing and "concluding" claims, using a publicly accessible inventory to report on its "success" in reducing the backlog of claims. In reality the majority of claims (88%) are being rejected or their files closed;

WHEREAS Canada has not eliminated the backlog of specific claims, rather, it has created two new backlogs that it does not intend to adequately provide funding to resolve:

1. A backlog of claims that can access the Tribunal resulting from the mass rejection of valid claims;
2. A backlog of new claims resulting from Canada's practice of partial acceptances – which forces First Nations to research and advance "split" allegations into as many as 10 new claims;

WHEREAS Canada has not eliminated the conflict of interest, which is deeply entrenched at all stages of the specific claims process;

WHEREAS Canada is sabotaging any remaining potential for the fair resolution of specific claims by challenging the Specific Claims Tribunal's supposedly binding decisions;

WHEREAS Canada is not resolving specific claims in a timely or efficient manner. It is rejecting claims *en masse*, creating new backlogs and inadequately funding claims development and claims at the Tribunal. Canada is creating additional delays and costs that will only increase;

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.

THEREFORE BE IT RESOLVED the UBCIC Chiefs Council calls for creation of a UBCIC Working Group on Specific Claims to work toward the fair and just resolution of BC Specific Claims;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council, having called for nominations from the floor to participate in a UBCIC Working Group on Specific Claims, does hereby appoint the following members to the UBCIC Working Group on Specific Claims:

1. Chief Dan Manuel, Upper Nicola Indian Band
2. Chief Maureen Chapman, Skawahlook First Nation
3. Chief Joyce Sam, Nooaitch First Nation

THEREFORE BE IT FURTHER RESOLVED that the UBCIC Chiefs Council directs the UBCIC Working Group on Specific Claims to conduct an environmental scan and a review of options for action to be presented to the UBCIC Chiefs Council;

THEREFORE BE IT FINALLY RESOLVED that the UBCIC Chiefs Council directs the UBCIC Executive to advance this issue as a national political agenda item and ensure communications go to all First Nations and like-minded organizations.

Moved: Chief Maureen Chapman, Skawahlook First Nation

Seconded: Chief Harold Aljam, Coldwater Indian Band

Disposition: Carried

Date: May 30, 2013