

# OUR LAND IS OUR FUTURE

## UNION OF BRITISH COLUMBIA INDIAN CHIEFS

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**FINAL RESOLUTIONS  
CHIEFS COUNCIL  
FEBRUARY 15<sup>TH</sup> TO 16<sup>TH</sup>, 2017  
MUSQUEAM COMMUNITY CENTRE, X<sup>w</sup>MƏƏK<sup>w</sup>ƏYƏM (MUSQUEAM TERRITORY)**

- 2017-01 UBCIC Meeting Schedule for 2017-2018 Fiscal Year
- 2017-02 Support for the FNFC Submission to the Parliamentary Standing Committee on Fisheries and Oceans regarding the *Fisheries Act* Review
- 2017-03 Support for the FNFC Submission to the Parliamentary Standing Committee on Transport, Infrastructure and Communities regarding *Navigation Protection Act* Review
- 2017-04 Protection of Orca Whales and Habitat
- 2017-05 Supporting Revitalization of Indigenous Languages
- 2017-06 First Nations Jurisdiction Over Children and Families
- 2017-07 Concerns with the Mandate of the First Nations Health Council in Relation to Aboriginal Child Welfare Reform in BC [**TABLED**]
- 2017-08 Support for the Special Advisor's Report on Indigenous Child Welfare Titled *Indigenous Resilience, Connectedness and Reunification – From Root Causes to Root Solutions*
- 2017-09 Support for \$10aDay Child Care Plan in BC
- 2017-10 UBCIC Vancouver Office Lease – 312 Main
- 2017-11 UBCIC Joint Application for Leave to Intervene in the Supreme Court of Canada Case Regarding the Williams Lake Indian Band Village Site Specific Claim
- 2017-12 Tripartite Education Framework Agreement Renewal

- 2017-13 Supporting for Protecting Harper Lake Area
- 2017-14 Minister of Advanced Education Support for the Native Education College (NEC) in Vancouver
- 2017-15 Protection of Water, Salmon and Health from Diluted Bitumen
- 2017-16 Call on the Crown to Renounce its Purported Authority to Declare First Nations “Extinct”
- 2017-17 End the Illegal Extinguishment of Aboriginal Rights and Title by Provincial Authorities
- 2017-18 Crown to Disclose Specific Criteria on its Discretionary Authority when Infringing upon First Nations Title and Rights
- 2017-19 Support for First Nations in Addressing Capacity Building for the Use and Benefit of Digital Connected Technology

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**Resolution no. 2017-01**

## **RE: UBCIC Meeting Schedule for 2017-2018 Fiscal Year**

**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; and

**WHEREAS** the UBCIC will host one (1) Annual General Assembly and two (2) Chiefs Council meetings in the 2017-2018 fiscal year.

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

- June 28-29, 2017
- September 27- 29, 2017 (49<sup>th</sup> Annual General Assembly)
- February 21-22, 2018; and

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

**Moved:** Chief Ryan Day, Bonaparte Indian Band  
**Seconded:** Chief Vivian Tom, Wet'suwet'en First Nation  
**Disposition:** Carried  
**Date:** February 15, 2017

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**Resolution no. 2017-02**

**RE: Support for FNFC Submission to the Parliamentary Standing Committee on Fisheries and Oceans regarding the *Fisheries Act* Review**

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

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

**WHEREAS** in 2012 the Conservative Federal Government, without consultation with BC First Nations, introduced changes to the *Fisheries Act* as part of Omnibus Bill C-38 *Jobs, Growth and Long-term Prosperity Act*, which weakened habitat protections, attempted to limit the scope of Aboriginal fisheries, and reduced oversight of projects that could negatively affect aquatic resources;

**WHEREAS** Prime Minister Trudeau has directed the Minister of Fisheries, Oceans and the Canadian Coast Guard to review the 2012/2013 changes to the *Fisheries Act*, restore lost protections, and incorporate modern safeguards;

**WHEREAS** the Parliamentary Standing Committee on Fisheries and Oceans was tasked with conducting this review with a deadline for submissions to the Standing Committee having been set for November 29, 2016, with the Minister of Fisheries and Oceans accepting submissions until the extended deadline of January 31<sup>st</sup>, 2017;

**WHEREAS** the *United Nations Declaration on the Rights of Indigenous Peoples*, which Canada has endorsed without qualifications, sets out:

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

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

**Article 29(1):** Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources...;

**WHEREAS** the First Nations Fisheries Council of BC (FNFC) and Mandell Pinder LLP worked in partnership with regional First Nations organizations throughout the province to develop a submission to the Standing Committee and to the Minister of Fisheries, Oceans and the Canadian Coast Guard;

**WHEREAS** The FNFC submission highlights how lost protections under the 2012/13 changes to the Act ought to be remedied, as well as how the Act ought to be modernized with a focus on restoring habitat provisions, omitting language from the Act that seeks to define Aboriginal fisheries, enabling co-management with First Nations, and limiting Ministerial discretion. In addition, the submissions highlight key elements of the 2012/13 changes to the Act that weakened protections for fish and fish habitat and attempted to limit the scope of Aboriginal fisheries.;

**WHEREAS** the FNFC's submissions call upon the Government of Canada to properly consult with all First Nations Rights holders on matters related to fisheries policy, management and legislation, and to engage in co-management with First Nations on a Nation-to-Nation basis. Implementation of the recommendations put forward in the submission would improve fisheries management practices and increase protection for the fish and aquatic resources on which First Nations across the province have always relied for nutritional, cultural, spiritual and economic wellbeing, in addition to upholding the Section 35(1) Rights of all BC First Nations;

**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; and

**WHEREAS** by UBCIC Resolution 2012-21 the UBCIC strongly opposes the omnibus Bill C-38 *Jobs, Growth and Long-term Prosperity Act*, including its erosion of environmental protections to serve the interests of industry while ignoring Aboriginal Title, Rights, and Treaty Rights, and the unilateral imposition of the proposed *Canadian Environmental Assessment Act 2012*.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council fully supports the First Nations Fisheries Council of BC's (FNFC) submission to the Parliamentary Standing Committee on Fisheries and Oceans regarding the review of the 2012/2013 changes to the *Fisheries Act*; and

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive to communicate its support of the FNFC's submission to the Parliamentary Standing Committee on Fisheries and Oceans to the Minister of Fisheries, Oceans and the Canadian Coast Guard.

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

**Seconded:** Chief Fred Sampson, Siska Indian Band

**Disposition:** Carried

**Date:** February 15, 2017

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**Resolution no. 2017-03**

**RE: Support for FNFC Submission to the Parliamentary Standing Committee on Transport, Infrastructure and Communities regarding *Navigation Protection Act* Review**

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

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

**WHEREAS** in 2012 the Conservative Federal Government, without consultation with BC First Nations, introduced changes to the *Navigation Protection Act* (NPA) as part of Omnibus Bill C-45, which drastically reduced the number of waterways protected by the NPA, leaving 99% of lakes, rivers and oceans in Canada unprotected and exempting several major industrial projects from federal purview;

**WHEREAS** Prime Minister Trudeau has directed the Minister of Transport to review the 2012/2013 changes to the *Navigation Protection Act*;

**WHEREAS** the Parliamentary Standing Committee on Transport, Infrastructure and Communities was tasked with conducting this review with a deadline for submissions to the Standing Committee having been set for December 7, 2016, with the Minister of Transport accepting submissions until the extended deadline of January 31<sup>st</sup>, 2017;

**WHEREAS** the *United Nations Declaration on the Rights of Indigenous Peoples*, which Canada has endorsed without qualifications, sets out:

**Article 19:** States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed

consent before adopting and implementing legislative or administrative measures that may affect them.

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

**Article 29(1):** Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources...;

**WHEREAS** the First Nations Fisheries Council of BC retained JFK Law Corporation to conduct a legal analysis as part of their submission to the Standing Committee;

**WHEREAS** the FNFC submission focuses on the need to restore the weakened environmental protection of waterways, restoring accountability, transparency and public participation in decision-making, protections as they relate to Aboriginal Rights and the absence of modern federal water policy or law that recognizes Aboriginal Water Rights, and the need for a comprehensive strategy to protect water that integrates our deeper knowledge of water in the environment; and

**WHEREAS** the FNFC's submission reflects the need for the Government of Canada to properly consult with all First Nations Rights holders on matters related to water protection, policy, management and legislation, and to engage in co-management with First Nations. Implementation of the recommendations put forward in the submission would improve the environmental protection of navigable waterways on which First Nations across the province have always relied for health and for cultural, spiritual and economic wellbeing. In addition, the submission also seeks to uphold the Section 35(1) Rights of all BC First Nations.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council fully supports the First Nations Fisheries Council of BC's (FNFC) submission to the Standing Committee on Transport, Infrastructure and Communities regarding the review of changes to the *Navigation Protection Act*; and

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive to communicate its support of the FNFC submission to the Minister of Transport.

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

**Seconded:** Chief Fred Sampson, Siska Indian Band

**Disposition:** Carried

**Date:** February 15, 2017

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**Resolution no. 2017-04**

## **RE: Protection of Orca Whales and Habitat**

**WHEREAS** the *Orcinus orca* whale (commonly known as the killer whale) is the largest member of the dolphin family. In the Pacific waters, three distinct groups of killer whale (residents, transients, and offshore whales) inhabit the waters, inlets, and rivers of British Columbia;

**WHEREAS** the killer whale has significant cultural and spiritual relevance to First Nations in BC;

**WHEREAS** the killer whale is protected under the federal *Species at Risk Act* (SARA), with additional protection under the Marine Mammal Regulations of the *Fisheries Act*. The whales are listed under SARA as an endangered and threatened species;

**WHEREAS** SARA defines an “endangered species” as “a wildlife species that is facing imminent extirpation or extinction.” SARA also defines a “threatened species” as “a wildlife species that is likely to become an endangered species if nothing is done to reverse the factors leading to its extirpation or extinction”;

**WHEREAS** given the listing under SARA, the Department of Fisheries and Oceans (DFO) is required to create plans for the species’ recovery and protection, which generally have not been updated since 2009. A core part of the planning process is the identification and protection of critical habitat necessary for the survival and recovery of the species. Protection of the killer whale’s critical habitat includes their food source and the quality of their environment, as required by SARA

**WHEREAS** the Minister of Fisheries and Oceans is charged with the duty to protect the critical habitat of killer whales. Further, the Minister of the Environment must protect critical habitat on federal lands which overlap with the resident killer whales’ critical habitat;

**WHEREAS** killer whales are particularly vulnerable to various threats, which impact upon their recovery and contribute to further decline in population. Such threats include:

- Declining food sources;
- Physical and acoustic disturbance; and
- Declining marine environment resulting from noise pollution and toxic contamination from accumulated pollutants;

**WHEREAS** in the fall of 2008, Raincoast Conservation Foundation and other conservation groups, represented by Ecojustice, successfully brought a lawsuit to protect Canada's two populations of resident killer whales on the basis of DFO's obligation to protect the critical habitat of threatened and endangered whales;

**WHEREAS** following the approval of Kinder Morgan's Trans Mountain pipeline expansion, the increased tanker traffic will bring increased threats to the killer whales in the form of noise pollution and declining marine environment, impacting the survival and wellbeing of killer whale populations and their ability to communicate with one another; and

**WHEREAS** the Minister of Fisheries and Oceans, the Honourable Dominic LeBlanc, has told the Canadian Press that he has been working with the Transport Minister, the Honourable Mark Garneau, on a revamped recovery plan and is seeking a way to regulate underwater shipping noise as part of their plan to protect the endangered killer whales.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council fully support the continued protection of BC's resident, transient and offshore killer whales; and

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs Council direct the UBCIC Executive to call on the Government of Canada to take a whole of government approach to protecting the critical habitat of orca whales in the pacific region, including developing separate action plans to address:

1. Endangered southern residents;
2. Threatened northern whales;
3. Protecting and preserving critical habitat, including food supply; and
4. Addressing physical and acoustic disturbance.

**Moved:** Chief Don Tom, Tsartlip First Nation  
**Seconded:** Chief Lee Spahan, Coldwater Indian Band  
**Disposition:** Carried  
**Date:** February 15, 2017

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**Resolution no. 2017-05**

## **RE: Supporting Revitalization of Indigenous Languages**

**WHEREAS** as stated in the report of the fifteenth session of the United Nations Permanent Forum on Indigenous issues, Indigenous languages form the bedrock of continuity for the survival and well-being of Indigenous cultures from one generation to the next. This important intergenerational responsibility has been severely disrupted by colonialism and colonial practices, laws, policies and practices of discrimination, assimilation, forced relocation and residential and boarding schools, among others;

**WHEREAS** the report further states there is a growing crisis of Indigenous language loss and in many cases an urgent, even desperate, need to preserve and revitalize languages. It is estimated that more than half of the world's languages will become extinct by 2100;

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

**Article 13(1):** Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies writing systems and literatures, and to designate and retain their own names for communities, places and persons.

**Articles 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.

**WHEREAS** the Truth and Reconciliation Commission of Canada Call to Action #14 states:

*We call upon the federal government to enact an Aboriginal Languages Act that incorporates the following principles:*

- 1. Aboriginal languages are a fundamental and valued element of Canadian culture and society, and there is an urgency to preserve them.*
- 2. Aboriginal language rights are reinforced by the Treaties.*

3. *The federal government has a responsibility to provide sufficient funds for Aboriginal-language revitalization and preservation.*
4. *The preservation, revitalization, and strengthening of Aboriginal languages and cultures are best managed by Aboriginal people and communities.*
5. *Funding for Aboriginal language initiatives must reflect the diversity of Aboriginal languages.*

**WHEREAS** a significant underlying objective of all preservation and revitalization efforts is the absolute necessity of producing ever-growing numbers of fluent language speakers;

**WHEREAS** on December 6<sup>th</sup>, 2016, in an address to the Assembly of First Nations Special Chiefs Assembly, Prime Minister Justin Trudeau committed to the development and enactment of an Indigenous Languages Act, co-developed with Indigenous Peoples, with the goal of ensuring the preservation, protection, and revitalization of First Nations, Métis, and Inuit languages in this country; and

**WHEREAS** First Nations in British Columbia have a vested interest in ensuring that initiatives aimed at the revitalization of Indigenous languages are:

1. Developed collaboratively, with the full participation of First Nations in BC; and
2. Successfully accomplish revitalization for all Indigenous languages.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council supports the immediate development and enactment of an *Indigenous Languages Act*, co-developed with full participation of First Nations, organizations and relevant councils in British Columbia; and

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive to call on the governments of Canada and British Columbia to ensure that all government funded efforts and initiatives respecting Indigenous languages are consistently guided by the objectives of revitalization, preservation and protection of First Nations, Métis, and Inuit languages in this country; and

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive to call on the government of Canada to develop and implement the proposed *Indigenous Languages Act*, taking into full account and priority support for the BC region which is home to two thirds of Indigenous languages in Canada, including some of the most critically endangered Indigenous languages in the country.

**Moved:** Deb Foxcroft, Ehattesaht First Nation (Proxy)  
**Seconded:** Chief Harvey McLeod, Upper Nicola Indian Band  
**Disposition:** Carried  
**Date:** February 15, 2017

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**Resolution no. 2017-06**

**RE: First Nations Jurisdiction Over Children and Families**

**WHEREAS** Indigenous Peoples have the right to self-determination, which includes jurisdiction over our children and families. Canada's constitutional framework recognizes and protects the continuity of Indigenous laws and traditions;

**WHEREAS** the inherent jurisdiction and authority of Indigenous Peoples over matters internal to them including child welfare have been recognized in Canadian jurisprudence, such as *Connolly v. Wolrich*, *Casimer v. I.C.B.C.*, and *R. v. VanderPeet*;

**WHEREAS** the *United Nations Declaration on the Rights of Indigenous Peoples* recognizes the right of Indigenous Peoples to flourish as Peoples caring for children and families according to our own languages, laws and social structures;

**WHEREAS** First Nations and their representative organizations have continued to advocate for the reform of Child and Family Services due to the continued apprehension of First Nations children into foster care, and the lack of resources to assist families following apprehension;

**WHEREAS** many First Nations seek to exercise their inherent jurisdiction and authority in the management and development of their own Child and Family Services that respond to the unique needs of their communities;

**WHEREAS** removing First Nations children from their homes and placing them in foster care frequently leads to devastating outcomes, including: broken cultural and family ties, lack of academic achievement, substance abuse, suicides, and disconnection from language and territories;

**WHEREAS** on May 30<sup>th</sup> and 31<sup>st</sup>, 2016, the Province of British Columbia and the Political Executives of the BC Assembly of First Nations, First Nations Summit, and the Union of BC Indian Chiefs (working together as the First Nations Leadership Council) co-hosted the First Nations Children and Families Gathering in Vancouver, BC. The purpose of the Gathering was to engage First Nations leaders, community organizations and service agencies, provincial and federal government representatives in a dialogue on short, medium and long term opportunities to improve outcomes for First Nations children, families and communities;

**WHEREAS** at the close of the Gathering, the Province and the First Nations Leadership Council committed to initiate a working group focused on addressing current policy and legislative frameworks related to First Nations children and families. Subsequent to this, Canada agreed to participate in tripartite working group discussions;

**WHEREAS** by resolutions at Chiefs' Assemblies (UBCIC Resolution no. 2016-44, FNS Resolution #1016.11, BCAFN Resolution 22/2016), the Chiefs in BC support in principle the Draft Action Framework and have directed the First Nations Leadership Council to bring a revised Action Framework, incorporating First Nations' feedback to upcoming Assemblies. In the meantime, the Chiefs have directed continued engagement with both Canada and British Columbia to honourably engage in a robust and meaningful Indigenous-driven process to reform Indigenous child welfare in BC, informed by the Draft Action Framework;

**WHEREAS** the Tripartite Working Group, comprised of representatives of BC, Canada, and BC First Nations through the First Nations Leadership Council, will focus on identifying opportunities to influence and realize systemic change to British Columbia's child welfare system, including the development of recommendations for creating legislative and policy space related to governance and jurisdiction, and planning for implementation; and

**WHEREAS** The Working Groups does not replace any existing discussions or negotiations respecting child and family well-being that any member agency or ministry may currently have underway with additional partners, including First Nation communities and/or Aboriginal organizations, nor does it preclude Working Group member agencies or ministries from initiating new discussions or negotiations as need.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council reaffirms its support for UBCIC Resolution 2016-44 "Draft Action Framework: Reconciliation, Self-Determination, and Self-Government for Indigenous Children, Families and Nations in BC";

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs Council recognizes that each First Nation has the right to determine and develop their own child welfare models, legislation, regulations, policies and practice standards, and fully support any and all First Nations in exercising their respective jurisdiction and authority over the care and well-being of their children and families;

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs Council fully supports any and all First Nations' efforts to exercise and secure recognition of their jurisdiction and authority over children and families;

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs Council fully supports all Indigenous Nations' inherent Right to care for their children, a Right protected by the Constitution of Canada and recognized by the *United Nations Declaration on the Rights of Indigenous Peoples*; and

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive to communicate to the governments of BC and Canada, its full support for the work on Child Welfare reform currently underway under the Tripartite process between BC, Canada and the BC Assembly of First Nations, First Nations Summit, and the Union of BC Indian Chiefs (collectively the First Nations Leadership Council), in full collaboration with First Nations Sectoral Councils, Delegated Agencies and the First Nations Directors Forum.

**Moved:** Chief Harvey McLeod, Upper Nicola Indian Band  
**Seconded:** Chief Lee Spahan, Coldwater Indian Band  
**Disposition:** Carried  
**Date:** February 16, 2017

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**Draft Resolution no. 2017-07**

**RE: Concerns with the Mandate of the First Nations Health Council in Relation to Aboriginal Child Welfare Reform in BC**

**WHEREAS** on May 30<sup>th</sup> and 31<sup>st</sup>, 2016, the Province of British Columbia and the Political Executives of the BC Assembly of First Nations, First Nations Summit, and the Union of BC Indian Chiefs (working together as the First Nations Leadership Council) co-hosted the First Nations Children and Families Gathering in Vancouver, BC. The purpose of the Gathering was to engage First Nations leaders, community organizations and service agencies, provincial and federal government representatives in a dialogue on short, medium and long term opportunities to improve outcomes for First Nations children, families and communities;

**WHEREAS** at the close of the Gathering, the Province and the First Nations Leadership Council committed to initiate a working group focused on addressing current policy and legislation frameworks related to First Nations children and families. Subsequent to this, Canada agreed to participate in tripartite working group discussions;

**WHEREAS** by resolutions at Chiefs' Assemblies (UBCIC Resolution no. 2016-44, FNS Resolution #1016.11, BCAFN Resolution 22/2016), the Chiefs in BC support in principle the Draft Action Framework and have directed the First Nations Leadership Council to bring a revised Action Framework, incorporating First Nations' feedback to upcoming Assemblies. In the meantime, the Chiefs have directed continued engagement with both Canada and British Columbia to honourably engage in a robust and meaningful Indigenous-driven process to reform Indigenous child welfare in BC, informed by the Draft Action Framework;

**WHEREAS** the Tripartite Working Group, comprised of representatives of BC, Canada, and BC First Nations through the First Nations Leadership Council, will focus on identifying opportunities to influence and realize systemic change to British Columbia's child welfare system, including the development of recommendations for creating legislative and policy space related to governance and jurisdiction, and planning for implementation;

**WHEREAS** the First Nations Health Council (FNHC) mandate as related to Health including: to provide "political leadership for the implementation of the Health Plans" and to "politically oversee the transition of FNIH to a new First Nations Health Authority"; and

**WHEREAS** there is concern that the FNHC does not have the mandate to enter into the realm of child and family reform, nor does the FNHC have the endorsement by the UBCIC Chiefs Council to engage in such work, as is being currently undertaken by the FNHC.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council reaffirm their support for UBCIC Resolution 2016-44 "Draft Action Framework Reconciliation, Self-Determination, and Self-Government

for Indigenous Children, Families and Nations in BC” that directs the UBCIC Executive to work with the BC Assembly of First Nations and the First Nations Summit as the First Nations Leadership Council, to continue engagement with both Canada and British Columbia to honourably engage in a robust and meaningful Indigenous-driven process to reform Indigenous child welfare in BC, informed by the Draft Action Framework;

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs Council does not support, at this time, an agreement by either the federal or provincial government with the First Nations Health Council (FNHC) under which the FNHC would undertake any work in reforming Indigenous child and family services in BC; and

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs Council direct the UBCIC Executive to demand the federal and provincial governments to cease any negotiations with the FNHC until such issues relating to the mandate of the FNHC, in relation to Aboriginal Child Welfare reform in BC, are clarified.

**Moved: Chief Harvey McLeod, Upper Nicola Indian Band**  
**Seconded: Garrett Elliot, Cowichan Tribes (Proxy)**  
**Disposition: Tabled (20 votes against motion to table)**  
**Date: February 16, 2017**

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**Resolution no. 2017-08**

**RE: Support for the Special Advisor's Report on Indigenous Child Welfare Titled *Indigenous Resilience, Connectedness and Reunification – From Root Causes to Root Solutions***

**WHEREAS** in September 2015, Grand Chief Edward John was appointed as Special Advisor on Indigenous Children in Care (the Special Advisor);

**WHEREAS** in the role as Special Advisor he travelled to many Indigenous communities to hear directly from the families and communities about their children who are in care;

**WHEREAS** the Special Advisor's mandate included: engaging with Aboriginal, First Nations and Métis communities on permanency discussions; reviewing policy and legislation within the ministry to find ways to improve the overrepresentation of Indigenous children in care; and providing Early Years advice to the Minister of Children and Family Development;

**WHEREAS** in this role, the Special Advisor was requested to prepare reports to the Minister regarding progress, identification of barriers and potential strategies to address them. Further, the Special Advisor was mandated to submit a final report summarizing activities relating to permanency planning, addressing items in The Council of the Federation report and any activity relating to early childhood development;

**WHEREAS** on November 21, 2016, in a special ceremony that included the Premier, Minister of Children and Family Development and Indigenous leaders, the Special Advisor presented his final report, *Indigenous Resilience, Connectedness and Reunification – From Root Causes to Root Solutions*; and

**WHEREAS** the final report contains 85 recommendations to overhaul the child welfare system and improve outcomes for Indigenous children and youth in BC by changing focus from intervention and separation to strengthening and keeping families together.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council support and endorse the recommendations found within the Special Advisor on Indigenous Children in Care’s final report, *Indigenous Resilience, Connectedness and Reunification – From Root Causes to Root Solutions* (the Report), including its identification of:

- The necessary government investments required to support and enhance the health and well-being of Indigenous children in BC; and
- A path forward for First Nations and governments to work together to prioritize the health and well-being of Indigenous children in BC.

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs Council encourages the governments of BC and Canada to support and implement all 85 recommendations contained in the Report, on a priority basis; and

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs Council direct the UBCIC Executive to call on the governments of BC and Canada to work with the First Nations Summit, the BC Assembly of First Nations and other like-minded organizations to establish a committee of interested First Nations to fully implement and monitor all 85 recommendations contained in the Report.

**Moved:** George William, Splatstsin First Nation (Proxy)  
**Seconded:** Chief Harvey McLeod, Upper Nicola Indian Band  
**Disposition:** Carried  
**Date:** February 16, 2017

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**Resolution no. 2017-09**

## **RE: Support for \$10aDay Child Care Plan in BC**

**WHEREAS** there is a child care (daycare) crisis for families in communities across British Columbia where fees are unaffordable for families, there are too few quality spaces for children, and early childhood educators are paid low wages;

**WHEREAS** the child care crisis disproportionately affects First Nations families living in urban settings who are too often dealing with issues related to poverty and involvement with the child welfare system;

**WHEREAS** the *United Nations Declaration on the Rights of Indigenous Peoples* supports the mandate for Indigenous Early Learning and Child Care within an Indigenous right to strengthen and maintain distinct social and cultural institutions (Article 5), as an integral part of Indigenous cultural revitalization (Article 13.1), and a part of Indigenous educational systems for which there exists a right of Indigenous establishment and control (Article 14). Also relevant, the Declaration creates a state obligation to “specific measures” which take into account children’s special vulnerability and the importance of education for their empowerment (Article 17.2) as well as an obligation of “particular attention” to be paid to the rights and needs of Indigenous children (among others) (Article 22);

**WHEREAS** Canada has committed to co-develop with First Nations a separate Early Learning and Child Care (ELCC) framework in keeping with its commitments to reconciliation as articulated in the *United Nations Declaration on the Rights of Indigenous Peoples* and the recommendations of the Truth and Reconciliation Commission;

**WHEREAS** the non-partisan \$10aDay Child Care Plan calls for new provincial and federal investment into a child care system where families can access quality, culturally-relevant, affordable child care spaces at \$10 a day, no user fee for families who earn less than \$40,000, and early childhood educators will earn

an average of \$25 per hour;

**WHEREAS** multiple economic research demonstrates that a quality affordable child care system will be self-financing when more parents are able to participate in the work-force; and

**WHEREAS** 46 local governments across BC, 30 school districts, hundreds of community, women's, and early years organizations, and thousands of parents and grandparents are supporting the \$10aDay Plan representing a total of at least two million British Columbians.

**THEREFORE BE IT RESOLVED** that the UBCIC Chiefs Council supports in principle the \$10aDay Child Care Plan for BC, without prejudice to the efforts by First Nations to negotiate with the federal government a separate Indigenous Early Learning and Child care framework that gives full expression to the right of First Nations to design, develop and deliver quality early learning and child care programs and services for their children and families; and

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive to work with like-minded organizations to advocate for the non-partisan \$10aDay Child Care Plan for BC to the federal and provincial governments, as well as to the opposition parties.

**Moved:** Deb Foxcroft, Ehattesaht (Proxy)  
**Seconded:** Chief Don Tom, Tsartlip First Nation  
**Disposition:** Carried  
**Date:** February 16, 2017

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**Resolution no. 2017-10**

**Re: UBCIC Vancouver Office Lease - 312 Main**

**WHEREAS** the lease for the Vancouver office of the Union of BC Indian Chiefs at 342 Water Street will expire August 31, 2017;

**WHEREAS** the UBCIC Executive Director, engaged the services of Devoncore Company Ltd to provide assistance, advice and to act on our behalf with respect to the renewal of our current lease of the relocation of our premises;

**WHEREAS** after discussions, review of possible alternatives in the market, viewing of available properties, analysis of alternatives and upon the advice of Devoncore Company Ltd, an exploration commenced to explore the leasing opportunity with the City of Vancouver for their building located at 312 Main Street;

**WHEREAS** a draft Lease Agreement has been negotiated with the City of Vancouver, that minimizes lease rates over the term of ten (10) years, includes upgraded security for the elevator and the build out of three new office spaces;

**WHEREAS** Cedar and Sage Law Corporation, UBCIC Executive Director and Financial Manager have reviewed the terms of the Lease Agreement; and

**WHEREAS** UBCIC Executive Director and Financial Manager have reviewed the terms of the Lease Agreement and recommend its approval.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council accepts the recommendation and approves the Lease Agreement for 312 Main Street for the Vancouver Office of the UBCIC; and

**THEREFORE BE IT FINALLY RESOLVED** under section XVI - *Custody And Use Of The Seal*, Union of B.C. Indian Chiefs Constitution and By-laws (2014), the UBCIC Chiefs Council authorizes the Executive Director to use the UBCIC legal seal for the Lease Agreement for 312 Main Street.

**Moved:** Chief Fred Sampson, Siska Indian Band  
**Seconded:** Chief Lee Spahan, Coldwater Indian Band  
**Disposition:** Carried  
**Date:** February 16, 2017

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### Resolution no. 2017-11

**RE: UBCIC Joint Application for Leave to Intervene in the Supreme Court of Canada Case Regarding the Williams Lake Indian Band Village Site Specific Claim**

**WHEREAS** in 2009, Canada rejected the Williams Lake Indian Band's specific claim and, in 2011, the Williams Lake Indian Band filed its claim with the Specific Claims Tribunal ("Tribunal");

**WHEREAS** in February 2014, the Tribunal validated the claim, finding that the Williams Lake Indian Band had been wrongfully dispossessed of its village lands and that Canada should be held accountable. The Tribunal ruled:

- Canada should be accountable for (a) the Colony's failure to protect the Williams Lake Indian Band's village lands and (b) its own failure to remedy this breach of fiduciary duty.
- Allotting land in a different area in place of the village lands that were alienated did not remedy the breach;

**WHEREAS** in February 2016, the Federal Court of Appeal (FCA) allowed judicial review of the decision and, in March 2016, dismissed the Williams Lake Indian Band's claim. Although the Tribunal's decision should have been final and binding, the FCA took the unusual step of substituting its own (sometimes inaccurate) finding of fact, setting aside the Tribunal ruling, and rendering its own decision. The FCA came to the highly unjust conclusion that Canada had remedied the breach by allotting reserve lands in a different location;

**WHEREAS** in October 2016, the Supreme Court of Canada (SCC) agreed to hear the Williams Lake Indian Band's appeal of the FCA decision;

**WHEREAS** if the SCC agrees with Canada and upholds the FCA ruling overturning the Tribunal's decision in the Williams Lake Indian Band's village site claim:

- The authority granted to the Tribunal under the Specific Claims Tribunal Act (SCTA) to make final and binding decisions on specific claims will be completely undermined, leading to expensive court battles (in which Canada has all the resources) of the kind that the Tribunal was created to avoid;
- Canada may evade responsibility for potentially hundreds of other colonial era breaches in British Columbia since the FCA rejected the Tribunal's argument that Canada had a responsibility for these breaches;
- Canada, as a fiduciary, can act unilaterally in settling land disputes, overriding the land rights of Indigenous Nations;

**WHEREAS** Canada is entirely and unequivocally undermining the stated objectives and promises of resolving specific claims in an impartial, fair, and timely manner to promote meaningful and final reconciliation between Indigenous 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** the UBCIC Chiefs Council recognizes the extreme importance of this appeal in setting a precedent in Canadian law and defining the authority and relevance of the Tribunal;

**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, 2012-43, and 2013-24 support reform that will bring about the fair, just, and timely resolution of specific claims;

**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 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;

**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;

**WHEREAS** UBCIC is uniquely situated to bring a broad and vital perspective to the SCC appeal by the Williams Lake Indian Band because:

- The UBCIC has conducted research and development of over 400 specific claims for BC Indigenous Nations over a forty-year period and therefore brings important technical knowledge related to reserve creation in BC;
- The UBCIC has an equally long history of advocating for specific claims policy reform, including joining Indigenous Nations nationally to call for an independent decision-making body to make final decisions on specific claims and a non-adversarial process for resolving these historical grievances;
- The UBCIC successfully intervened in the 2014 FCA case in which the court overturned Canada's application of review of the Kitselas village site claim; and

**WHEREAS** UBCIC is leading a coalition (“Williams Lake Indian Band Coalition to intervene”) of partners to apply jointly for leave to intervene at the SCC. The Nlaka’pamux Nation Tribal Council has agreed to participate and UBCIC and is working to expand this coalition.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council direct the UBCIC, on behalf of the Williams Lake Indian Band Coalition, to apply for leave to intervene in the Williams Lake Indian Band case before the SCC; and

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive to continue to encourage like-minded organizations to partner with and contribute resources to the Williams Lake Indian Band Coalition in its application for leave to intervene in the Williams Lake Indian Band case before the SCC.

**Moved:** Chief Byron Louis, Okanagan Indian Band  
**Seconded:** Chief Ryan Day, Bonaparte Indian Band  
**Disposition:** Carried  
**Date:** February 16, 2017

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**Resolution no. 2017-12**

**RE: Tripartite Education Framework Agreement Renewal**

**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* and the *United Nations Declaration on the Rights of Indigenous Peoples*;

**WHEREAS** in 1972, First Nations in Canada endorsed the policy of *Indian Control of Indian Education*, advancing an education approach premised on parental responsibility and local control. This was updated in 2010 by the Assembly of First Nations in its *First Nations Control of First Nations Education* policy position paper. First Nations in BC, and the First Nations Education Steering Committee (FNESC), continue to consistently work toward full First Nations control of First Nations education;

**WHEREAS** First Nations in BC have been working together formally for more than two decades to advance quality educational opportunities and improve educational outcomes for all 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** contributing to this system is the Tripartite Education Framework Agreement (TEFA), which was signed on January 27, 2012 by Canada, British Columbia and the FNESC on behalf of First Nations, with implementation beginning September 2012;

**WHEREAS** the UBCIC reaffirmed their support for the BC First Nations education system through Resolution #2011-16, "Re: INAC's New Approach to BC First Nations Education";

**WHEREAS** by UBCIC Resolution 2016-08 “INAC Evaluation and Audit Branch Review of Tripartite Education Framework Agreement” the UBCIC confirms that the Tripartite Education Framework Agreement is intended to benefit and support improved educational outcomes for all First Nation students in BC, including those who attend First Nation schools, those who attend provincial public and private schools, and those who transition between the two school systems;

**WHEREAS** TEFA initiated a new funding model for First Nations schools in BC, based on the provincial funding formula for provincial public schools, with specific adaptations. It also provides for core and second level services funding for FNEC to provide services to First Nations schools and advocacy for First Nations students in public schools;

**WHEREAS** TEFA acknowledges the package of Education Jurisdiction Agreements negotiated by Canada, British Columbia and FNEC, on behalf of BC First Nations, and supports First Nations transition to becoming Participating First Nations under that package of Agreements and corresponding legislation;

**WHEREAS** TEFA expires on March 31<sup>st</sup>, 2017, and commits the Parties to renewal discussion six months prior to its expiry;

**WHEREAS** through the experience of implementing TEFA, FNEC identified key policy objectives and began early preparation for the renewal of TEFA to ensure that issues of key concern and importance to First Nations and First Nations learners are effectively addressed in a renewed TEFA;

**WHEREAS** TEFA renewal discussion began in August 2016 and, by December 2016, it was clarified that Indigenous and Northern Affairs Canada (INAC) did not have a mandate to renew TEFA with additional funding to meet the outstanding needs identified by First Nations and First Nation schools – in particular for language, culture, and technology. Canada made assumptions and did not appropriately prepare for enhanced funding for a renewed TEFA, effectively forcing the need for an extension of TEFA;

**WHEREAS** the Government of Canada rolled out Budget 2016, including new investments in First Nations education. However, it was clarified at the TEFA renewal table that the BC Region will be held at the 2016 funding level going forward and will not be eligible for increased in 2017-18, allowing INAC to provide more funding to other regions;

**WHEREAS** despite the progress and achievements in building the BC First Nations Education System to date, there is still much work to be done to achieve comparability in student results and to ensure that the gap does not widen as a result of such things as technology advances. BC First Nations identified language, culture and technology as outstanding needs in 2012 to be meaningfully addressed in a renewed TEFA. Funding must support the revitalization and preservation of languages and cultures, and the ability of First Nations schools and students to catch up and keep with technological advances to support successful student learning outcomes;

**WHEREAS** the New Liberal Government, which took office in November 2015, committed to a Nation-to-Nation relationship with Indigenous Nations, and to working in partnership, respectful of regional approaches and First Nations control of First Nations education, as well as investing in First Nations

education in a significant way . On December 6, 2016, Prime Minister Trudeau announced that Canada will introduce an Indigenous Languages Act in hopes of preserving and revitalizing First Nations, Métis, and Inuit languages in Canada. On December 21, 2016, the Canadian Radio-television and Telecommunications Commission declared broadband internet a basic telecommunications service. These announcements affirm the importance of advancing language, culture and technology in First Nations education; and

**WHEREAS** Canada will celebrate its 150<sup>th</sup> anniversary in 2017, and reconciliation under section 35 of the *Constitution Act, 1982* remains an ongoing imperative, including with respect to education. The attempt at cultural genocide and ongoing legacy of the colonial residential school education program can only be eradicated through genuine reconciliation and achieving fully First Nations control of First Nations education.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council direct the UBCIC Executive to call on the Government of Canada to:

1. Uphold and be fully accountable for the Government's commitment to:
  - a. Support First Nations control of First Nations education,
  - b. Respect regional approaches to education;
  - c. Working in partnership with First Nations and not act unilaterally with regard to First Nations education.
2. Work in full partnership with the First Nations Education Steering Committee (FNESC), in partnership with the First Nations Schools Association (FNSA), to develop appropriate federal mechanisms (i.e. submissions to Cabinet and Treasury Board) to achieve funding that supports the continued development and evolution of the BC First Nations education system aimed at improving student outcomes.

**Moved:** Deb Foxcroft, Ehattesaht First Nation (Proxy)  
**Seconded:** Chief Janet Webster, Lytton First Nation  
**Disposition:** Carried  
**Date:** February 16, 2017

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**Resolution no. 2017-13**

**RE: Support for Protecting Harper Lake Area.**

**WHEREAS** since time immemorial, the Harper Lake area is an important Indigenous Use area for the Secwepemc Nation and members of the Neskonlith Indian Band;

**WHEREAS** the Shuswap Nation Tribal Council (SNTC) issued a permit to the Adams Lake, Neskonlith and Spallumcheen Indian Bands for the Harper Lake Area to harvest trees in accordance with their laws;

**WHEREAS** in a 1999 demonstration of Neskonlith's jurisdiction over the Harper Lake area, the Neskonlith went logging under Secwepemc authority without a provincial permit, this demonstration became known as the Harper Lake Logging case, and resulted in the *Jules and Wilson* case defending Aboriginal Title and jurisdiction in BC;

**WHEREAS** the litigation caused significant economic hardship for all of the First Nations parties. The *Jules and Wilson* litigants sought an order for advance costs which was granted by the Court of Appeal and affirmed by the Supreme Court of Canada, and defined the case to be one of national importance;

**WHEREAS** Neskonlith, in partnership with the Okanagan Nation Alliance submitted an Amicus Brief to the Inter-American Commission on Human Rights of the Organization of American states on behalf of the Hul'qumi'num Treaty Group, challenging Canada's claim that the historic costs order provided a domestic remedy sufficient to prevent the use of international forums to challenge the theft by the Province of lands and resources from First Nations' territories in the absence of Treaty;

**WHEREAS** due to a number of procedural motions and delays taken by the BC provincial government, Neskonlith's 1999 Harper Lake Logging case has yet to go to trial;

**WHEREAS** ever since the 1997 *Delgamuukw* decision, the member nations of the Interior Alliance, including the Secwepemc, tried to get the federal and provincial governments to engage in a good faith effort to

implement the *Delgamuukw* decision and to address the pressing social and economic needs of our people by recognizing the First Nations right to be involved in the management, use and benefit of our lands and resources;

**WHEREAS** by refusing to acknowledge Aboriginal Title, the provincial government has continued to alienate and authorize logging and timber harvesting without First Nations traditional territories, in areas and with methods, that are unauthorized by First Nations, and which violate Aboriginal Title and Rights;

**WHEREAS** the *United Nations Declaration on the Rights of Indigenous Peoples*, which Canada has endorsed without qualifications, sets out:

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

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

**Article 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.

**Article 26(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 29(1):** Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources...;

**WHEREAS** Neskonlith bears witness to the Province's and Canada's failure to recognize and implement Aboriginal Title internationally within the Canada-US Softwood Lumber Dispute, to which the federal and provincial policies and laws do not take into account the economic aspect of Aboriginal Title and thus constitute a subsidy under international trade law;

**WHEREAS** by UBCIC Resolution 2016-46 "Canada-USA Softwood Lumber Dispute" the UBCIC Chiefs-in-Assembly fully support members of the Interior Alliance and other interested Nation-based entities and INET to work with the National Congress of American Indians (NCAI), Intertribal Timber Council and US Tribes impacted by the Canadian subsidy to the Canadian forest industry, and develop a strategy to eliminate trade subsidies for the benefit of Indigenous Peoples on both sides of the border; and

**WHEREAS** the province has issued a cutting permit to a Woodlot licensee in the Harper Lake Area.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council fully supports the Neskonlith efforts to protect the ecological integrity of the Harper Lake Area; and

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive to communicate its support of the Neskonlith Right to protect the ecological integrity of the Harper Lake Area to the Province of BC.

**Moved:** Kukpi7 Judy Wilson, Neskonlith Indian Band  
**Seconded:** Chief Lee Spahan, Coldwater Indian Band  
**Disposition:** Carried  
**Date:** February 16, 2017

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UNION OF B.C. INDIAN CHIEFS  
CHIEFS COUNCIL  
FEBRUARY 15<sup>TH</sup> TO 16<sup>TH</sup>, 2017  
MUSQUEAM COMMUNITY CENTRE, X<sup>w</sup>MƏØK<sup>w</sup>ƏYƏM (MUSQUEAM TERRITORY)

**Resolution no. 2017-14**

**RE: Ministry of Advanced Education Support for the Native Education College (NEC) in Vancouver**

**WHEREAS** the Native Education College (NEC) has been providing culturally appropriate Adult Basic Education and Post-Secondary programming to Aboriginal adult learners for 50 years, and in the last 32 years at our Longhouse campus located at 285 East 5th Ave in Vancouver;

**WHEREAS** numerous proposals for designation of the NEC as a public college have been denied and the annual grant from the Ministry is insufficient and has been frozen since 2011, leading to financial uncertainty and jeopardizing the future of this Aboriginal institution;

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

**Article 14**

(1): Indigenous peoples have the right to establish and control their educational systems and institutions providing educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning;

**Article 21**

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

(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 person with disabilities;

**WHEREAS** the NEC is developing its own real properties in a joint venture with an Aboriginal housing agency and BC Housing to fund expansion of its facility and to provide affordable housing for Aboriginal students and families;

**WHEREAS** the Aboriginal Post-Secondary Policy Framework states that Aboriginal institutes have a unique and critical role in BC's post-secondary system to increase Aboriginal participation and completion in post-secondary education; and

**WHEREAS** the Ministry must not only close the gap in Aboriginal student outcomes but must do so in a way that promotes self-determination and self-governance.

**THEREFORE BE IT RESOLVED** UBCIC Chiefs Council directs the UBCIC Executive to call on the Minister of Advanced Education to provide NEC with:

- On-going operating funds to help close the large wage gap between NEC employees and public college employees by funding a 10% increase in wage rates that would cost approximately \$500,000 annually;
- An annual operating grant increase, to cover expanded operations not previously supported, of an additional 70 seats at \$665,000 per year;
- With Aboriginal Emergency Assistance Funding available to public colleges;
- A commitment to future operating support for an NEC expansion (expected opening in 2020);

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive to call on the Minister of Advanced Education to partner with NEC to deliver on the Aboriginal Post-Secondary Policy Framework goals relating to Aboriginal institutes by: becoming part of an integrated PSE system, improve quality assurances, develop policy, wise practices and dialogue, implement a funding model for Aboriginal institutes, and pilot the use of PEN by Aboriginal institutes; and

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive to work with the Native Education College (NEC), First Nations Education Steering Committee (FNESC), and the Indigenous Adult and Higher Learning Association (IAHLA), and the BC Aboriginal Post-Secondary Education and Training Partners Group to address this important matter.

**Moved:** George William, Splat'sin First Nation (Proxy)  
**Seconded:** Chief Harvey McLeod, Upper Nicole Indian Band  
**Disposition:** Carried  
**Date:** February 16, 2017

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**Resolution no. 2017-15**

#### **RE: Protection of Water, Salmon and Health from Diluted Bitumen**

**WHEREAS** on November 29, 2016, the Canadian Federal Cabinet directed the National Energy Board to approve the Kinder Morgan Trans Mountain pipeline expansion;

**WHEREAS** the UBCIC Chiefs Council passed Resolution 2011-54 “Support for the Save the Fraser Declaration, the Coastal First Nations Tanker Ban, and the Indigenous laws Banning Crude Oil Pipeline and Tanker Shipments through British Columbia”, through which the UBCIC Chiefs Council:

- a) Endorse the Coastal First Nations Tanker Ban and Save the Fraser Declaration that prohibits the transportation of tar sands crude oil by pipeline and tanker on the north coast, south coast and through the Fraser River watershed; and
- b) Urge the governments of Canada and British Columbia to respect the laws and authority of First Nations, and to protect the environment, fisheries, and the health and safety of all BC communities, by opposing and rejecting the Kinder-Morgan Trans Mountain pipeline and tanker expansion;

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

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

#### **Article 26**

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

#### **Article 29**

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

(2): States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent;

**Article 32**

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

(2): States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources;

**WHEREAS** the Tsleil-Waututh, Squamish, Musqueam, Coldwater, Upper Nicola, Stk'emlupsemc te Secwepemc, Aithchelitz, Shxwhay Village, Yakwekwioose, Kwaw-kwaw-apilt, Tzeachten, Skowkale, Soowalie, and Squiala peoples have commenced legal proceedings seeking to challenge the federal approval for the Trans Mountain project on the basis that the Crown failed to adequately consult and accommodate them;

**WHEREAS** on January 10, 2017, the province of British Columbia granted an Environmental Assessment Certificate for the Trans Mountain project, relying on the flawed National Energy Board review process, but has yet to issue other required provincial permits to allow construction to begin;

**WHEREAS** diluted bitumen contains toxic chemicals that are a threat to drinking water, health, and the well-being of salmon and other beings;

**WHEREAS** the Supreme Court of Canada has held that the Crown's legislative power can and should be used to uphold its duties to Indigenous peoples, and that both the federal and provincial governments have an obligation to uphold the honour of the Crown;

**WHEREAS** the provincial government has a constitutional responsibility to safeguard water and public health;

**WHEREAS** the provincial *Recall and Initiative Act* requires citizen-driven legislation to be introduced in the Legislature or put to a province-wide vote if supported by petition signatures from at least 10% of the total number of registered voters in each electoral district in British Columbia; and

**WHEREAS** the non-profit organization Dogwood Initiative already has canvassed volunteers in 57 of 87 ridings to assist with a Citizens Initiative should the provincial government, post-election, be unwilling to take action.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive to work with affected members to seek adequate resources to support its work and engage technical advisors to

develop and implement an integrated strategy to oppose the Kinder Morgan Trans Mountain tankers and pipelines project, including determining the most effective ways to support:

- Strategies grounded in Indigenous territorial authority and the exercise of Indigenous law;
- Legal challenges to the federal approval of the Trans Mountain project and other future legal proceedings that may be filed;
- A Citizens Initiative focused on preventing threats to water and health from the transportation of diluted bitumen, and related organizing efforts;
- Financial pressure and divestment strategies; and
- Collaboration between coastal and interior Indigenous peoples, with Indigenous and non-Indigenous allies, and with aligned local governments.

**Moved:** Kukpi7 Judy Wilson, Neskonlith Indian Band

**Seconded:** Chief Lee Spahan, Coldwater Indian Band

**Disposition:** Carried

**Date:** February 16, 2017

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#### Resolution no. 2017-16

#### **RE: Call on the Crown to Renounce its Purported Authority to Declare First Nations “Extinct”**

**WHEREAS** the Crown has unilaterally interfered with First Nations and violated our inherent rights by purporting to have the authority under the *Indian Act* to declare that a First Nations group is “extinct” or has “ceased to exist”

**WHEREAS** moreover, the Crown has used this purported authority, in violation of First Nations inherent rights, to dispossess First Nations of traditional lands;

**WHEREAS** First Nation peoples have always governed themselves according to their customs, laws, and traditions, including the determination of their individual and collective identities;

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

**Article 3:** 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;

**Article 8 (2b):** 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 33 (1):** Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions;

**WHEREAS** this purported authority is currently being relied upon in *R v Desautel*, in which Mr. Desautel, holding that he is a descendent of the Sinixt people, is accused of violating provincial hunting regulations in British Columbia; and

**WHEREAS** the Crown in *R v Desautel* continues to allege that the Sinixt people became “extinct” in British Columbia, while ignoring relevant information held by First Nations in the area, such as other Insyilxcn speaking peoples’. An allegation by the Crown of “extinction” of a First Nations group, when disputed by First Nations of that area, is highly offensive, wholly contrary to the Crown’s fiduciary obligations, and is the antithesis of reconciliation. This is particularly so in cases where, as in *R v Desautel*, the Crown seeks to rely upon Crown policies and practices regarding reserve delineation and allotment, the Crown’s definition and creation of Indian Bands, Crown policies on “extinction”, and the Crown’s own records.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive to call on the Crown to renounce any authority it may purport to have to unilaterally declare that a First Nation is “extinct” or has “ceased to exist”;

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive to call upon the Government of Canada to end its practice, in all legal proceedings to which it is a party, now and in the future, of relying on any authority that purports to unilaterally declare a First Nation “extinct” or having “ceased to exist”; and

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive to work with the Government of Canada to propose legislative amendments to clarify that the *Indian Act* does not grant the Minister the authority to unilaterally declare that a First Nation is “extinct” or has “ceased to exist”. Such amendments would not exclude or limit any decision by the Court in *R v Desautel* that are favorable to First Nation interests or Rights.

**Moved:** Chief Harvey McLeod, Upper Nicola Indian Band  
**Seconded:** Chief Lee Spahan, Coldwater Indian Band  
**Disposition:** Carried  
**Date:** February 16, 2017

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**Resolution no. 2017-17**

## **RE: End the Illegal Extinguishment of Aboriginal Rights and Title by Provincial Authorities**

**WHEREAS** although the Supreme Court of Canada recently concluded that provincial laws apply to Aboriginal title lands, that same Court has stated that provinces have no jurisdiction to extinguish Aboriginal Title and Rights: *Delgamuukw v. British Columbia*, [1997] 3 SCR 1010 per Lamer J at paras 185, 177-178, 180;

**WHEREAS** provinces and territories continue to exceed their constitutional authority by making unilateral land and resource management plans and decisions that effectively extinguish Aboriginal rights and title by:

- Destroying habitats and ecosystems;
- Doing major harm to species;
- Permitting harmful cumulative environmental impacts, amongst others; and

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

**Article 8 (2b):** 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 19:** States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior, and informed consent before adopting and implementing legislative or administrative measures that may affect them;

**Article 26 (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;

**Article 32 (2):** States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed

consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council direct the UBCIC Executive to call on the provinces and territories to immediately cease any intrusion upon federal jurisdiction pursuant to s.91(24) of the *Constitution Act, 1867*;

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive to call on the province and territories to engage meaningfully with First Nations to ensure that land and resource management plans and decisions properly respect Aboriginal Title and Rights and do not intrude upon federal s.91(24) jurisdiction; and

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive to call on the federal government to serve notice on the provinces and territories that the continued intrusion upon s.91(24) jurisdiction will not be tolerated.

**Moved:** Chief Harvey McLeod, Upper Nicola Indian Band  
**Seconded:** Chief Lee Spahan, Coldwater Indian Band  
**Disposition:** Carried  
**Date:** February 16, 2017

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**Resolution no. 2017-18**

**RE: Crown to Disclose Specific Criteria on its Discretionary Authority when Infringing upon First Nations Title and Rights**

**WHEREAS** the Supreme Court of Canada held in *R v Adam*, [1996] 3 SCR 101 that a statute [that] confers an administrative discretion which may carry significant consequences for the exercise of an Aboriginal Right [must] outline specific criteria for the granting or refusal of that discretion (at para 54, emphasis added);

**WHEREAS** the Court also warned the Crown in *R v Adams* that failing to meet this duty to disclose specific criteria will cause a statute to “fail to provide representatives of the Crown with sufficient directives to fulfill their fiduciary duties”, and thereby constitute an infringement of Aboriginal Rights under the *Sparrow* test (at para 54);

**WHEREAS** despite the Court having decided *R v Adams* over 20 years ago, the Crown refuses to identify the specific criteria relied upon when exercising administrative discretion that infringes or may infringe upon First Nation’s Title and Rights ;

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

**Article 8 (2b):** 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 19:** States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them;

**Article 26 (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;

**Article 32 (2):** States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources; and

**WHEREAS** First Nations are particularly concerned by the absence of specific criteria in relation to matter involving the Crown's obligations to:

- Evaluate an impacted First Nation's strength of claim;
- Measure the impact to, and assess any justification for, infringing an Aboriginal Right;
- Determine the appropriate accommodation of an Aboriginal Right

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council direct the UBCIC Executive to call upon the federal, provincial and territorial Crowns to comply with the law as outlined in the Supreme Court of Canada's decision in *R v Adams*; and

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive to call upon the federal, provincial and territorial Crowns to disclose specific criteria that grants discretionary authority in relation to matters involving the Crown's obligations to:

- a. Evaluate an impacted First Nation's strength of claim;
- b. Measure the impact to, and assess any justification for, infringing an Aboriginal Right;
- c. Determine the appropriate accommodation of an Aboriginal Right.

**Moved:** Chief Harvey McLeod, Upper Nicola Indian Band

**Seconded:** Chief Lee Spahan, Coldwater Indian Band

**Disposition:** Carried

**Date:** February 16, 2017

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#### Resolution no. 2017-19

#### **RE: Support for First Nations in Addressing Capacity Building for the Use and Benefit of Digital and Connected Technology**

**WHEREAS** there is a significant challenge of trying to meet the different technology needs of 203 First Nations throughout BC;

**WHEREAS** the Province of BC has committed to high speed internet but far too many rural and remote First Nation communities still lack broadband connectivity and in addition, the CRTC has stated connectivity as a basic essential service at 50MB download and 10MB upload speeds;

**WHEREAS** in 2002 the First Nations Technology Council (FNTC) was mandated by the First Nations Summit, BC Assembly of First Nations and the Union of BC Indian Chiefs to address the technology related needs of the 203 First Nations communities in BC to ensure that all 203 First Nations communities in BC have access to the internet and the capacity to utilize digital technologies to the fullest potential. The FNTC Board is comprised of representatives appointed by the First Nation Summit, Union of BC Indian Chiefs and BC Assembly of First Nation;

**WHEREAS** in March 2008, BC granted \$22.5 million to the All Nations Trust Company (ANTCO) without First Nations consultation, to address the digital divide for First Nations in BC, including for capacity building. Further, in November 2008, BC transferred an additional \$18.3 million to ANTCO without consultation with First Nations;

**WHEREAS** in 2010, INAC awarded an additional \$8 million to ANTCO from the first Nations Infrastructure fund, without consultation with First Nations. Between 2015 and 2016 an additional \$10,760,852 was provided to ANTCO from INAC;

**WHEREAS** ANTCO has thus far received \$59.6 million in government funding on behalf of First Nations in BC without substantial input from First Nations Leadership and \$32.9 million remains unspent;

**WHEREAS** Pathways to Technology, a project managed by ANTCO, is an initiative to bring affordable and reliable high-speed Internet to all 203 First Nations in BC;

**WHEREAS** First Nations in BC continue to experience significant challenges in accessing the necessary resources to improve technical support, technology training and to connect BC First Nations;

**WHEREAS** the federal department of Innovation, Science and Economic Development Canada has committed \$500 million for connectivity and the CRTC has asked service providers to collect \$750 million for connectivity; and

**WHEREAS** First Nations Chiefs in Assembly encourage British Columbia and Canada to work with leadership of the First Nations Summit, the Union of BC Indian Chiefs and BC Assembly of First Nations to engage ANTCO in creating strategies to release funds to the First Nations Technology Council for the exclusive use and benefit of First Nations in connectivity efforts.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council direct the UBCIC Executive to call upon the Governments of British Columbia and Canada to work with the First Nations Summit, the Union of BC Indian Chiefs and BC Assembly of First Nations to engage the All Nations Trust Company (ANTCO) in creating strategies for the release of funds to the First Nations Technology Council for the exclusive use and benefit of First Nations in BC that are working to address capacity building for the use and benefit of digital and connected technology;

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs Council call for any new funding for First Nations connectivity and capacity be put in place for use and distribution by the First Nations Technology Council working with the First Nations Summit, the Union of BC Indian Chiefs and the BC Assembly of First Nations;

**TEHREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive to work in partnership with the First Nations Technology Council to convene meetings of all those organizations involved in technology capacity or connectivity to begin mapping a process to better meet First Nations technology needs for implementation as soon as practicable; and

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive to work with the First Nations Technology Council to provide regular updates to the First Nations Summit, Union of BC Indian Chiefs and BC Assembly of First Nations.

**Moved:** Kukpi7 Judy Wilson, Neskonlith Indian Band  
**Seconded:** Chief Don Tom, Tsartlip First Nation  
**Disposition:** Carried  
**2 Abstentions:** Chief Bob Pasco and Chief Janet Webster  
**Date:** February 16, 2017