

OUR LAND IS OUR FUTURE

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UNION OF B.C. INDIAN CHIEFS
ANNUAL GENERAL ASSEMBLY
OCT 2ND TO 4TH, 2018
MOCCASIN SQUARE GARDENS, Tk'EMLÚPS TE SECWÉPEMC TERRITORY

Resolution no. 2018-38

RE: Protection of the Tsilhqot'in Sacred site of Teztan Biny, Nabas and the Surrounding Area

WHEREAS the Tsilhqot'in Nation, with the support of the Union of BC Indian Chiefs (UBCIC), the Assembly of First Nations, and First Nations Summit, successfully defended its Aboriginal rights, culture and the integrity of their lands and waters threatened by the Prosperity Gold-Copper Mine (the "Prosperity Mine"), and the revised "New" Prosperity Mine (the "New Prosperity Mine"), which would have devastated the Teztan Biny (Fish Lake) and Nabas areas;

WHEREAS the *United Nations Declaration on the Rights of Indigenous Peoples*, which the Governments of British Columbia and Canada have adopted without qualification and have committed to implement, affirms:

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: Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources;

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 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;

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WHEREAS the Tsilhqot'in Nation and its communities endured two separate federal environmental assessment processes for the Prosperity Mine and New Prosperity Mine proposals;

WHEREAS in each review, an independent federal panel emphasized the profound cultural and spiritual importance of Teztan Biny and Nabas to the Tsilhqot'in people as a gathering place, as a cultural school for youth, as a place of spiritual power and healing, as sacred burial and cremation grounds, and as critical hunting, trapping, fishing and gathering areas. The federal panel for New Prosperity Mine warned that the mine would "endanger their ability to sustain their way of life and cultural identity";

WHEREAS on November 16, 2010, the Federal Government rejected the Prosperity Mine. On February 26, 2014, the Federal Government rejected the New Prosperity Mine;

WHEREAS in contrast, the Government of British Columbia ("BC") rushed to approve the Prosperity Mine, and has actively advocated on behalf of the mine and its proponent, Taseko Mines Ltd. ("TML"). On January 14, 2010, before the first federal panel had even started its public hearings, BC approved the Prosperity Mine, on the basis of a report from the British Columbia Environmental Assessment Office ("EAO") that dismissed the impacts of the mine on the Tsilhqot'in people as insignificant;

WHEREAS despite the federal rejection of the New Prosperity Mine, TML continues to try and advance the rejected mine, including a plan to undertake further extensive drilling, road building and exploration (the "Exploration Program") in support of the New Prosperity design throughout the Teztan Biny and Nabas region;

WHEREAS the Tsilhqot'in Nation has advised BC and TML that it strongly opposes TML's efforts to proceed with the Exploration Program and to cause further, massive disruption of lands and waters that the Tsilhqot'in people have fought for so long to protect, in support of a project that has been rejected—twice—and cannot be built;

WHEREAS on the final day of power of the former provincial BC Liberal Government, the Ministry of Energy, Mines and Petroleum Resources granted a *Mines Act* permit for the Exploration Program;

WHEREAS the Tsilhqot'in Nation challenged the Exploration Program permit in BC Supreme Court and recently lost the case, and has since appealed to the BC Court of Appeal;

WHEREAS the Tsilhqot'in community of Xení Gwet'in, in response to the BC Supreme Court ruling and with the support of the Tsilhqot'in Nation, established a Peaceful Gathering and Spiritual Camp at Teztan Biny;

WHEREAS the EAO has also advised the Tsilhqot'in Nation that it is proceeding to consider the application by TML to amend its existing provincial certificate for the Prosperity Mine to conform to the New Prosperity design. In effect, the EAO is considering provincial approval for New Prosperity Mine, notwithstanding the fact that the project is dead and cannot be built in the face of the rejection by the Federal Government;

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WHEREAS the Tsilhqot'in Nation has profound concerns with the EAO certificate amendment process and procedures which do not reflect the commitments made to Indigenous Peoples by the BC NDP Government, or the principles which are apparently guiding the Environmental Assessment Revitalization process;

WHEREAS Teztan Biny and Nabas are within the proven Aboriginal rights area declared in *Tsilhqot'in Nation*, within the Dasiqox Tribal Park established by the Tsilhqot'in communities of Xenigwet'in and Yunesit'in, and subject to the 1989 Nemiah Declaration and the Tsilhqot'in Nation Mining Policy, all of which emphasize the need for Tsilhqot'in consent;

WHEREAS the Tsilhqot'in Nation advanced the struggle for free, prior and informed consent with the historic decision in *Tsilhqot'in Nation v British Columbia*. BC's *Mineral Tenure Act* and *Mines Act* do not ensure the consent of Indigenous Peoples before the issuance of mineral interests and project approvals, and do not conform to the standards and rights affirmed in the *United Nations Declaration on the Rights of Indigenous Peoples*;

WHEREAS despite the inadequacies with BC's mining laws, the Minister of Energy, Mines and Petroleum Resources has various tools that could enable the Province of British Columbia to permanently protect the Teztan Biny and Nabas region from further impacts from mineral activity; and

WHEREAS the UBCIC has provided unwavering support to the Tsilhqot'in Nation throughout their struggle, including through Resolutions 2016-49, 2011-35, 2010-32, and leadership and advocacy from the UBCIC Executive and staff, and this support has been critical to the success of the Tsilhqot'in Nation to date.

THEREFORE BE IT RESOLVED the UBCIC Chiefs-in-Assembly fully support the efforts of the Tsilhqot'in Nation to protect their lands of profound cultural and spiritual value from the proposed New Prosperity Mine, and will stand behind the Tsilhqot'in Nation in defence of these lands regardless of any decisions by British Columbia, the Environmental Assessment Office (EAO), or the BC Ministry of Energy and Mines;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs-in-Assembly call upon the Province of British Columbia to heed the cautions of two independent Panels which conducted the environmental assessments, demonstrate commitment to environmental protection and the cultural survival of First Nations, prevent further destruction of the Teztan Biny and Nabas areas, and work swiftly with the Tsilhqot'in Nation to resolve the conflict over the use and status of these important lands and waters;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs-in-Assembly direct the UBCIC Executive to work with the Tsilhqot'in Nation and other like-minded organizations to advocate on behalf of the Tsilhqot'in Nation and communicate clear support of the Chiefs-in-Assembly, including:

- Advise the Province of British Columbia that First Nations across BC are watching closely and fully support the Tsilhqot'in opposition to the Exploration Program, and that it is a violation of constitutional rights and the rights affirmed within *United Nations Declaration on the Rights of Indigenous Peoples* to have authorized extensive drilling, road building and exploration, in such culturally important lands, for a project that has been twice rejected;
- Advise the Province of British Columbia and the EAO that First Nations are bearing witness to the New Prosperity amendment process and are alarmed and deeply concerned by the EAO's

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apparent lack of integrity, and its disregard for the interests of First Nations in British Columbia;
and

THEREFORE BE IT FINALLY RESOLVED the UBCIC Chiefs-in-Assembly direct the UBCIC Executive to support the Tsilhqot'in Nation in securing recognition by the Governments of Canada and British Columbia that the Tsilhqot'in Nation has a special relationship to and authority over its lands and waters through the exercise of its Title and Rights, and that in cases such as the conflict over land use at Teztan Biny and Nabas, and this recognition must include implementation of the right to free, prior and informed consent.

Moved: Chief Maureen Chapman, Skawahlook First Nation
Seconded: Chief Chad Eneas, Penticton Indian Band
Disposition: Carried
Date: October 3, 2018

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