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TO: FIRST NATIONS CHIEFS IN BC
FROM: FIRST NATIONS LEADERSHIP COUNCIL
DATE: SEPTEMBER 14, 2021
**RE: EMERGENCY MANAGEMENT SERVICES MOU
IMPLEMENTATION UPDATE (MOU)**

PURPOSE

To update First Nations Chiefs in BC on the progress of the MOU implementation of and further identify key issues in emergency management, including the 2021 wildfire season.

BACKGROUND

The Bilateral Emergency Management Service Agreement was signed between BC and Canada April 1, 2017, for the purposes of emergency management service delivery by EMBC to BC First Nations. The 2017/2018 wildfires highlighted the disproportionate effects of natural disasters for First Nations in BC. The subsequent Abbott-Chapman Report, the *Trial by Fire: Nadleh Whut'en and the Shovel Lake Fire, 2018* report, and the *From the Ashes: Reimagining Fire Safety and Emergency Management in Indigenous Communities: Report of The Standing Committee on Indigenous and Northern Affairs* made known the need for improved supports and funding for First Nations Emergency Management. The Tripartite Emergency Management Services Memorandum of Understanding (MOU) was signed on April 27, 2019 between the First Nations Leadership Council (FNLC), the Government of Canada (represented by Indigenous Services Canada (ISC), and the Government of British Columbia (represented by Emergency Management BC (EMBC) and BC Wildfire Service (BCWS)) outlining a relationship as full and equal partners to establish a collaborative and constructive working relationship to advance meaningful recognition and enhanced capacity of First Nations within all pillars of emergency management (preparedness, mitigation, response and recovery), through a joint high-level dialogue process that focuses on a mutually developed agenda and Tripartite Emergency Management Working Group (TEMWG).

In 2020, BC began the process of modernizing the *Emergency Program Act* (EPA). This legislation aims to be the first DRIPA-aligned (Declaration on the Rights of Indigenous Peoples Act) modernized legislation. The EPA sub-committee, appointed by the FNLC, is in place to ensure that matters of First Nations jurisdiction, rights and title are addressed.

A letter to the province of BC and the federal government was sent by the FNLC on June 30, 2021, to address the ongoing emergency management (EM) funding gap for First Nations in BC, which exists despite the Tripartite EM MOU being in place.

On July 7, BC pulled together an initial call of a First Nations-Canada-BC Leadership Table on EM and Wildfires, co-chaired by Tyrone McNeil (Chair of the TEMWG) and Wayne Schnitzler, Interim Executive Director of First Nations Emergency Services Society (FNESS). Minister Farnworth was in attendance along with EMBC, CPR and CNR.

On July 8, Canada pulled together an initial call with the FNLC, BC, and FNESS on the immediate needs to address gaps identified by First Nations and FNESS that have become apparent in the 2021 wildfire season. Deputy Minister Michael Keenan of Transport Canada and Deputy Minister Christiane Fox of Indigenous Services Canada were in attendance, along with EMBC and BCWS. The focus was on addressing immediate needs for First Nations and FNESS and to identify the gaps in current inter-agency processes.

On July 13, FNLC was given a tour of FNESS offices, EMBC PREOC and BCWS control centre in Kamloops. This tour provided FNLC much insight into EM operations.

RECOMMENDATIONS

It is recommended that:

1. The BCAFN Chiefs-in-Assembly pass the BC First Nations Regional Action Plan resolution.
2. A Discussion Paper be drafted to identify and present BC First Nations emergency management governance options in advance of regional Tripartite Emergency Services Agreement(s) negotiations.

CURRENT STATUS

Tripartite Emergency Management MOU Implementation

In late 2020, Indigenous Services Canada (ISC) approved funding for a position to coordinate the implementation work of the MOU. On March 22, 2021, Cecile Brass started as the new FNLC Emergency Management (EM) MOU Coordinator and Policy Analyst. The updated and FNLC-approved TEMWG workplan was presented to the TEMWG on May 26, 2021.

Resolutions calling for the development of a BC First Nations Regional Action Plan were passed at the June 2021 FNS and UBCIC assemblies and is included in the September 14-16, 2021, BCAFN AGA resolutions package. The subsequent work plan and development strategy will be discussed at the upcoming virtual Emergency Management Forum October 20 & 21, 2021.

Beyond the implementation of the MOU, a BC region Tripartite Emergency Services Agreement is yet to be negotiated. First Nations continue to lack oversight or input into the disbursements of funds for First Nations emergency management in BC. FNLC continues to monitor the various issues that have become known and seeks to proactively problem solve with the various provincial and federal agencies. FNLC has recommended a Discussion Paper be drafted to identify and present BC First Nations emergency management governance options to better inform future negotiations.

Tripartite Emergency Management Working Group (TEMWG)

The most recent meeting of the TEMWG was on August 24, 2021. This was the first time the TEMWG First Nations caucus members met without Crown representatives attending. This meeting focused on the role of FNESS through this 2021 wildfire season and the planning of the BC First Nations Emergency Management Forum which is set to take place virtually on October 20 & 21, 2021. The TEMWG ToR are still under review by the TEMWG Chair, Tyrone McNeil and the EM MOU Coordinator, Cecile Brass. FNLC EM leads were in attendance.

BC First Nations Emergency Management Forum

As per the terms of the MOU, the first annual BC First Nations Emergency Management Forum has been scheduled to take place virtually for October 20&21, 2021. The funding for the Forum was provided by ISC. The TEMWG provided input into the agenda. The forum will be coordinated by FNLC, First Nations Public Service and FNESS. The EM Forum will provide much opportunity for dialogue and information sharing regarding the status of EM at the First Nation level. The Save the Date notice was distributed to the Chiefs on August 27, 2021. Notice of registration will be sent out soon.

2021 Wildfire Season

The 2021 wildfire season began with the total loss of Lytton First Nation's housing and infrastructure due to a fire that is believed to have been started by a spark from a CN or CP train and exacerbated by strong winds. There was no loss of life to Lytton members despite there being no evacuation alert or order being issued. The sudden and extreme onset of the wildfire season highlighted many areas still lacking by way of very high-level matters such as recognition of jurisdiction by the province or municipalities to the operational level gaps of communications and emergency social services (ESS). To help address these matters, FNESS was embedded in the Provincial Regional Emergency Operations Centre (PREOC) and the BC Wildfire Service (BCWS). FNESS was also provided a task number early on to facilitate resource requests from the Nations who incurred their services. FNLC and FNESS staff have been in daily contact to ensure issues are identified early.

The FNLC bi-weekly multi agency calls were put on hold and in their place All-Chiefs Town Halls on Wildfires were scheduled weekly beginning July 9, 2021. The final Town Hall will take place on September 17, 2021. FNLC, FNESS, ISC and EMBC shared in the planning and follow up requests from the Chiefs. A wildfire landscape briefing note was sent to BC Chiefs on July 21, 2021, from the FNLC. Communication processes were improved throughout this fire season, but the matters of lines of authority and recognition of jurisdiction continue to be problematic. Emergency Social Services (ESS) has been identified as a major issue. ESS is not a funded process and is run by volunteers. Every Nation, town or city is responsible for their own ESS and are reimbursed for direct costs such as hotels or gas and grocery cards. The evacuation centres themselves are run by volunteers, which, given the increasingly destructive nature of disaster due to climate change, is not tenable. Evacuations are becoming longer term and ESS at its inception did not consider needs beyond 24 hours, especially in the case of Nations such as Lytton, where a total loss has created the scenario of an entire community requiring long term housing until the recovery phase is completed.

At the height of the 2021 fire season there were as many as 29 Nations directly affected at once. There have been a total of 1586 wildfires through the 2021 fire season and an area totaling of 864,525 hectares burned thus far. This fire season has shone a light on the need for significant investment in First Nations EM and First Nations inclusion in EM Service Agreements between governments.

Currently, recovery funds fall under the responsibility of ISC through their Emergency Management Assistance Program (EMAP). This risk reduction and recovery program is guided by the United Nations Sendai Framework for Disaster Risk Reduction and has been developed to meet the unique emergency management response and recovery needs of First Nations with the aim to "build back better".

Emergency Program Act Modernization

The province requires a new workplan and engagement strategy as the activities of the EPA sub-committee were put on hold pending approval of support funding and further to that the

onset of what is being identified as the worst wildfire season in BC history. This workplan and engagement strategy will be co-drafted with EMBC and FNLC. Once complete it will be submitted to FNLC for approval and presented to the sub-committee. EMBC is currently seeking proposals from various consulting firms for the purposes of carrying out the engagement strategy. EMBC has approved the proposal for EPA co-drafting support submitted by FNLC. The FNLC-led Terms of Reference require FNLC approval pending review from FNLC legal team, consisting of Merle Alexander and Nick Smith of Miller Titerle+Company, Stacey Edzerza Fox of Morgan & Associates, and Mary Ellen Turpel-Lafond of Woodward & Company. The “validation” of a “Concept Paper” produced by the province last summer is currently under legal analysis by the FNLC-appointed legal team. BC intends for the modernized EPA to be aligned with Declaration Act, but it remains to be seen if this can be achieved.

ANALYSIS

Implementation of the MOU has been progressing at the Senior Officials level, as there are weekly meetings to address the First Nations capacity issues through this fire season and the now-quarterly TEMWG meetings taking place. This progress is not without its challenges, due to slow bureaucratic processes at EMBC leading to an almost 4-month wait for a funding approval.

A co-drafted Communications Protocol between FNLC, FNESS, BC and ISC would serve to streamline and better focus internal resources by eliminating confusion or lag in response times and would clarify the roles and responsibilities at all levels. The lack of funding at all levels of First Nations emergency management must be addressed immediately, as it is the reason that First Nations continue to be underserved and put directly at-risk during times of disaster. There are many protocols, agreements, MOU’s, legislation at the provincial level (the DRIPA) and new federal legislation (C-15) in place, yet there is no real commitment to action and needed resourcing.

NEXT STEPS:

1. BC First Nations Emergency Management Forum October 20 & 21, 2021
2. Seek funding for the drafting of BC First Nations Emergency Management Governance Discussion Paper.