



BRITISH COLUMBIA ASSEMBLY OF FIRST NATIONS

507 – 100 Park Royal
West Vancouver, BC V7T 1A2
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Website: www.bcafn.ca

BCAFN 11th Special Chiefs' Assembly
The Westin Bayshore – Vancouver, BC
November 25-26, 2014

Resolution 05/2014

SUBJECT: OMNIBUS RESOLUTION TO ADOPT SIX RESOLUTIONS

MOVED BY: CHIEF MAUREEN CHAPMAN, SKAWAHLOOK FIRST NATION

SECONDED BY: CHIEF BYRON LOUIS, OKANAGAN INDIAN BAND

DECISION: CARRIED BY CONSENSUS

WHEREAS:

- A. Upon review of the draft resolutions, it was determined that six of the resolutions were resolutions that the BC Assembly of First Nations (BCAFN) Chiefs in Assembly could support via an omnibus resolution.

THEREFORE BE IT RESOLVED THAT:

1. The Chiefs in Assembly hereby adopt the following resolutions:

- | | |
|-------------------|--|
| Resolution 05(a): | Support for Revisions and Continual Updates to the BCAFN Legal/Political Strategy; |
| Resolution 05(b): | B.C.'s Skills for Jobs Blueprint and Proposed Changes to the Provincial Public Education and Training System; |
| Resolution 05(c): | Support for an Extension to the Deadline for Residential School Common Experience Payment (CEP) Recipients Person Education Credits; |
| Resolution 05(d): | Call for Inquiry into the Babine Forest Products Ltd. Sawmill Explosion; |
| Resolution 05(e): | Endorsement of BC Aboriginal Justice Council Draft Terms of Reference; and, |

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Resolution 05(f):

Continued Engagement Between the Province of BC and
First Nations on a Forest Range Revenue Sharing and
Tenure Solution.

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Jody Wilson-Raybould, BC Regional Chief

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Resolution 05(a)/2014

SUBJECT: SUPPORT FOR REVISIONS AND CONTINUAL UPDATES TO THE BCAFN LEGAL/POLITICAL STRATEGY

MOVED BY: CHIEF MAUREEN CHAPMAN, SKAWAHLOOK FIRST NATION

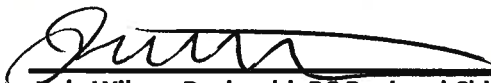
SECONDED BY: CHIEF BYRON LOUIS, OKANAGAN INDIAN BAND

DECISION: CARRIED BY CONSENSUS AS PART OF OMNIBUS RESOLUTION 05/2014

WHEREAS:

- A. On June 26, 2014, the first declaration of Aboriginal title was issued by the Supreme Court of Canada. The *Tsilhqot'in* decision forever changes the legal landscape in Canada and requires all levels of government to reconsider their approaches to reconciliation and in particular with respect to the scope and extent of the land base over which First Nations have title and rights;
- B. Chiefs and First Nations leaders, their legal counsel and staff should be aware of important legal actions and other developments underway at any given time involving or impacting First Nations' interests in BC, including title and rights litigation in BC and elsewhere in Canada, as well as recent court decisions and the potential impact of on-going legal proceedings or precedents;
- C. In recognition of the need to develop a collective legal and political strategy, in the May 2010 report of the First Nations All-Chiefs' Task Force, the Task Force recommended a legal strategy be developed building on the work previously undertaken at Westbank First Nation in 2008;
- D. The 2010 recommendations from the All-Chiefs' Task Force were endorsed by resolutions from the First Nations Summit, the Union of BC Indian Chiefs and specifically by the BC Assembly of First Nations (BCAFN) through resolution 06(f)/2011;
- E. The *BCAFN Legal/Political Strategy* has been drafted following recommendations of the All-Chiefs' Task Force and with the guidance received through the BCAFN Special Chiefs' Assemblies;

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- F. In March 2012, the BCAFN co-hosted a Special Chiefs' Assembly: Legal Political Strategy Session in Westbank, BC and at this strategy session, a draft BCAFN Legal/Political strategy was provided to the Chiefs in Assembly for discussion, with the objective of further updating and revising the strategy based on the feedback from Chiefs;
- G. In September 2014 the BCAFN presented an updated BCAFN Legal/Political strategy to the Chiefs in Assembly for feedback and discussion, and as part of the preparation for the BC Cabinet and First Nations Leaders Gathering on September 11, 2014 in Vancouver;
- H. The current *BCAFN Legal/Political Strategy* has been revised several times due to the changing legal and political landscape and to reflect the feedback received from BC Chiefs at meetings of the BCAFN; and,
- I. The *BCAFN Legal/Political Strategy* recognizes that First Nations in BC are undertaking the fundamental work of Nation building or re-building and re-establishing their deep and essential connections with their territory, governance over lands and resources, and ensuring their economy, culture, and way of life. Reflecting this understanding, the *BCAFN Legal/Political Strategy* identifies goals and actions to support and assist First Nations to:
- Share information about efforts to advance title and rights, including treaty rights;
 - Develop co-ordinated communications strategies;
 - Advance strategic litigation in an efficient and cost effective manner;
 - Advance efforts to implement and exercise jurisdiction;
 - Ensure that negotiations processes and mandates between First Nations and the Crown or third parties are appropriate for advancing recognition and implementation of Aboriginal title and rights, including treaty rights, and are fair, impartial and conducted in good faith; and,
 - Ensure that Crown policies and legislation respect Aboriginal title and rights, including treaty rights.

THEREFORE BE IT RESOLVED THAT:

1. The Chiefs in Assembly direct the BC Assembly of First Nations and the Regional Chief to work to continually update the *BCAFN Legal/Political Strategy* through the guidance of BC Chiefs, and based on the changing legal and political landscape include the recent *Tsilhqot'in* decision; and,
2. The Chiefs in Assembly direct the BC Assembly of First Nations and the Regional Chief to include the *BCAFN Legal/Political Strategy* document in strategic discussions with the First Nations Leadership Council.

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Resolution 05(b)/2014

SUBJECT: B.C.'S SKILLS FOR JOBS BLUEPRINT AND PROPOSED CHANGES TO THE PROVINCIAL PUBLIC EDUCATION AND TRAINING SYSTEM

MOVED BY: CHIEF MAUREEN CHAPMAN, SKAWAHLOOK FIRST NATION

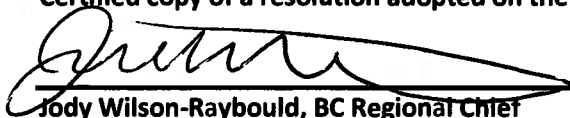
SECONDED BY: CHIEF BYRON LOUIS, OKANAGAN INDIAN BAND

DECISION: CARRIED BY CONSENSUS AS PART OF OMNIBUS RESOLUTION 05/2014

WHEREAS:

- A. The government of BC has indicated that a "re-engineering" of the provincial public education and training system is needed to support what it describes generally as BC's growing economy. The government of BC has specifically identified the need to refocus education and training heavily on jobs related to the oil and gas extraction industry, and in particular on liquefied natural gas (LNG);
- B. *B.C.'s Skills for Jobs Blueprint: Re-engineering Education and Training* (the "Blueprint") details what the Premier describes in her opening message as "a more targeted focus on training for high-demand jobs." The Blueprint is aimed at meeting the specific challenges associated with the development of the LNG industry in BC;
- C. The How Are We Doing? Report on Aboriginal outcomes shows that Aboriginal students are less likely to graduate with the skills and prerequisites needed to pursue a broad range of opportunities;
- D. Census data shows that Aboriginal people are well-represented in trades, and underrepresented in professional and academic professions, yet the Blueprint heavily emphasizes trades and strategies for increasing Aboriginal students' participation in trades;
- E. First Nations in BC are concerned that the Province's public education and training system and proposed changes to this system, as described most recently in the Blueprint, will continue to result in:

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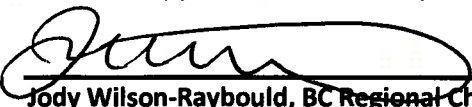

Jody Wilson-Raybould, BC Regional Chief

- i. Further exasperation of the gaps that exist within First Nations communities for trained members for all sectors in our communities, such as health, education, community development, and Aboriginal and treaty rights;
 - ii. Further limits on First Nation youth and people to careers focused on non-renewable resource industries; and,
 - iii. Streaming First Nation youth into a field that may not reflect their own goals, abilities, and aspirations;
- F. The United Nations has recently released a study on climate change which details how citizens and Nations must change our dependency on non-renewable fossil fuels to prevent drastic climatic change for our future generations;
- G. The Province of British Columbia's changes to the provincial public education system, which equates to increased focus on the economics of non-renewable resources, does not reflect an understanding or appreciation of what is required to build a sustainable economy that respects the vulnerability and long term health of our environment;
- H. There are provisions in existing agreements (*Tripartite Education Framework Agreement, Jurisdiction Framework Agreement*) that call for the Province of BC to meaningfully engage with First Nations early and ongoing;
- I. Consultation with First Nations in education must be consistent with the United Nations Declaration on the Rights of Indigenous Peoples and the principles of Free, Prior, and Informed Consent; and,
- J. There is an immediate need for the Province of BC to consult with First Nations in British Columbia on the evaluation and effectiveness of the provincial public education and training system to better meet the needs of First Nations communities in British Columbia and all British Columbians, for the present and the future.

THEREFORE BE IT RESOLVED THAT:

1. The Chiefs in Assembly direct the BCAFN Regional Chief, working with the Union of BC Indian Chiefs Executive and the First Nations Summit Task Group, to immediately communicate to the Government of BC that the Chiefs in Assembly:
 - a. Do not agree with the re-profiling of the provincial public education and training system to focus on the non-renewable resource sector at the expense of other sectors; and
 - b. Call on the on the BC lead Ministries (Jobs, Skills Training and Tourism, Education and Advanced Education) to immediately engage with the First Nations Education Steering Committee and First Nation Leadership Council on the appropriate implementation of the *Blueprint* to benefit

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First Nations people and communities in BC, and to align with and complement existing processes and agreements in BC on education.

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Resolution 05(c)/2014

SUBJECT: SUPPORT FOR AN EXTENSION TO THE DEADLINE FOR RESIDENTIAL SCHOOL COMMON EXPERIENCE PAYMENT (CEP) RECIPIENTS PERSONAL EDUCATION CREDITS

MOVED BY: CHIEF MAUREEN CHAPMAN, SKAWAHLOOK FIRST NATION

SECONDED BY: CHIEF BYRON LOUIS, OKANAGAN INDIAN BAND

DECISION: CARRIED BY CONSENSUS AS PART OF OMNIBUS RESOLUTION 05/2014

WHEREAS:

- A. Many First Nations Residential School Survivors struggle with physical, mental, spiritual and emotional issues day-to-day due to the outcomes of the Residential School era in Canada;
- B. On May 8, 2006, Canada and the Assembly of First Nations entered into the Indian Residential Schools Settlement Agreement;
- C. Implementation of the Indian Residential School Settlement Agreement began on September 19, 2007;
- D. The roll-out of Personal Education Credits was only announced in January 2014 with the expectation that all applications must be received by October 31, 2014 and personal credits redeemed by December 1, 2014 at eligible educational entities;
- E. Many Common Experience Payment Recipients have not applied for this funding and more time, as well as resources within communities to help survivors fill out the paperwork and also provide the emotional support, is required, as this phase of the Indian Residential School Settlement Agreement is bringing up a lot of emotions for survivors;
- F. The official website for the Personal Education Credits states:
 - i. The Indian Residential Schools Settlement Agreement stipulates that once all Common

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Experience Payments (CEP) have been made, if more than \$40 million remains in the Trust Fund, the funds are to be made available to CEP Recipients, upon application, in the form of non-cash Personal Credits of up to \$3,000 each for educational purposes;

- ii. CEP Recipients will be able to choose to transfer their Personal Credits to certain Family Members as defined in the Indian Residential Schools Settlement Agreement and the Terms and Conditions;
- iii. Terms and Conditions for Personal Credits have been developed by Canada and the Assembly of First Nations and by Canada and Inuit Representatives to determine which Education Entities and Groups and which Educational Programs and Services are eligible; and,
- iv. Once the Personal Credits have been distributed, any amount remaining in the Trust Fund on January 1, 2015 is to be paid to the National Indian Brotherhood Trust Fund and the Inuvialuit Education Foundation to be used for educational programs;

G. The United Nations Declaration on the Rights of Indigenous Peoples sets out:

Article 7(2): Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group; and,

Article 8(2): States shall provide effective mechanisms for prevention of, and redress for: (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities; (c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights; (d) Any form of forced assimilation or integration;

- H. The Nuu-chah-nulth Tribal Council voted unanimously on October 1, 2014 during their AGM to seek an extension from the Government of Canada on the Personal Education Credit deadlines and to provide resources to regions in order to support this work for Residential School Survivors;
- I. On November 19, 2014, an Order by the Supreme Court of British Columbia allows applicants to submit their Personal Credits Acknowledgement and Personal Credit Redemption Forms for processing until a final decision is made by the Courts;
- J. The Court Order authorizes Crawford Class Action Services (which is administering the personal credits on behalf of the Government of Canada) to keep accepting and processing applications and redemption forms; and,
- K. A final decision by the Government of Canada on whether to extend the deadline for submission of Personal Credits Acknowledgement and Personal Credit Redemption Forms has not yet been reached.

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THEREFORE BE IT RESOLVED THAT:

1. The Chiefs in Assembly commend the Supreme Court of British Columbia for the order granting interim relief which will allow former students of Indian residential schools to submit their applications for personal credits for education programs until a final decision is made on a deadline extension;
2. The Chiefs in Assembly fully support the Nuu-chah-nulth Tribal Council and the Assembly of First Nations in their continued pursuit to seek an extension to the Personal Education Credits for Residential School Common Experience Payment(CEP) Recipients; and,
3. The Chiefs in Assembly direct the BCAFN Regional Chief and staff to continue to work with the Assembly of First Nations, First Nations Summit and the Union of BC Indian Chiefs to seek an extension to the Personal Education Credits initiative.

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Resolution 05(d)/2014

SUBJECT: CALL FOR INQUIRY INTO THE BABINE FOREST PRODUCTS LTD. SAWMILL EXPLOSION

MOVED BY: CHIEF MAUREEN CHAPMAN, SKAWAHLOOK FIRST NATION

SECONDED BY: CHIEF BYRON LOUIS, OKANAGAN INDIAN BAND

DECISION: CARRIED BY CONSENSUS AS PART OF OMNIBUS RESOLUTION 05/2014

WHEREAS:

- A. On January 20, 2012, two men from local First Nations communities, Robert Luggi Jr., 45, and Carl Charlie, 42, lost their lives and another 20 workers were injured in an explosion and fire at the Babine Forest Products Ltd. sawmill in Burns Lake, BC;
- B. On January 10, 2014, the Criminal Justice Branch (CJB) released its decision to not approve charges in relation to the explosion, fire, deaths and injuries. The decision was made due to major errors made by WorkSafe BC in the conduct of its investigation of the explosion and resultant fire. Specifically, the errors related to Charter warnings and search warrants;
- C. The decision by the CJB raises many serious questions about the conduct of the WorkSafe BC investigation. As a result of this failure in the investigation, there is now a deep and serious lack of confidence in the ability of WorkSafe BC to properly and fully discharge its obligations and mandate;
- D. The communities, the injured and the families who lost loved ones deserve answers to the many questions arising from this tragedy and subsequent WorkSafe BC investigation. It is imperative that all the shortcomings in the investigation by WorkSafeBC be identified and explained. It is important that all avenues be pursued to ensure that persons and the corporate entity responsible are held accountable;
- E. On January 16, 2014 Premier Clark announced her instructions to her Deputy Minister, John Dyble, to review WorkSafe BC's investigation and CJB's decision not to pursue criminal charges in relation to the incident. Deputy Minister Dyble's review concluded that WorkSafeBC paid "insufficient attention" to

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Rodney Wilson-Raybould, BC Regional Chief

important legal precedents regarding the proper gathering of evidence for prosecutions. He also set out recommendations, including improved communication, training, and legal advice during investigations, and regular information meetings;

- F. As a part of this review, Deputy Minister John Dyble retained Lawyer Len Doust to provide an opinion on a very specific issue relating to whether or not a public inquiry could reconsider the decision by crown counsel to not approve the regulatory charges for prosecution. Mr. Doust's opinion letter of February 6, 2014 concluded:

"I can confirm, as you have indicated in your document, that there is very clear case law confirming that a decision of crown counsel to approve or not approve charges is not a proper subject for review in a public inquiry;"

As a result, the BC government has wrongly decided that a public inquiry into the Burns Lake sawmill explosion, resulting in two deaths and twenty injuries, is not necessary;

- G. The families of victims have continued to call for an independent public inquiry into the circumstances and events that led to the sawmill explosion, fire and investigation as a means of revealing the truth as to what happened on January 20, 2012 in Burns Lake;
- H. On March 6, 2014, the families of victims were in attendance in the Legislature of British Columbia, when Adrian Dix, Leader of the Opposition, reiterated the call for an independent inquiry under *the Public Inquiry Act* as an essential avenue to deliver accountability and justice and to ensure that necessary change occurs for worker safety in British Columbia. Premier Clark rejected the call for an inquiry based on legal advice that an inquiry will not provide any different answers than the ones we have now; and,
- I. The failures of the investigation by WorkSafeBC, the decision by the CJB not to proceed with charges based on these failures, and the Province's decision not to launch an independent inquiry has only added to the hurt and loss of the community and families who are waiting for answers and for justice.

THEREFORE BE IT RESOLVED THAT:

1. The Chiefs in Assembly fully support the call for an independent inquiry under the *Public Inquiry Act* into the January 20, 2012 explosion and fire at the Babine Forest Products Ltd. sawmill in Burns Lake, BC in order to:
 - Bring about the full disclosure of the record of facts;
 - Determine legal and policy procedures necessary to ensure both accountability and prevention of future similar incidents; and
 - Bring closure to the families of the victims and the community of Burns Lake that they rightfully deserve.

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Resolution 05(e)/2014

SUBJECT: ENDORSEMENT OF BC ABORIGINAL JUSTICE COUNCIL DRAFT TERMS OF REFERENCE

MOVED BY: CHIEF MAUREEN CHAPMAN, SKAWAHLLOOK FIRST NATION

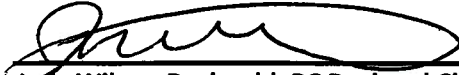
SECONDED BY: CHIEF BYRON LOUIS, OKANAGAN INDIAN BAND

DECISION: CARRIED BY CONSENSUS AS PART OF OMNIBUS RESOLUTION 05/2014

WHEREAS:

- A. Aboriginal people are over represented in the criminal justice system and ensuring equitable access to safety, justice, and preventative and rehabilitative services is a key priority for First Nations communities;
- B. On May 14-16, 2007, the Union of BC Indian Chiefs (UBCIC), BC Assembly of First Nations, and First Nations Summit (FNS), working together as the First Nations Leadership Council (FNLC) held the BC First Nations Justice Forum. BCAFN Resolution 08/2007 endorses and supports the implementation of the BC First Nations Justice Action Plan, which called for the formation of a BC First Nation Justice Council, and BCAFN Resolution 09/2007 supports the "concept of a representative and inclusive BC First Nations Justice Council to address province-wide matters, with respect to the issues of First Nations justice";
- C. The BC Assembly of First Nations Chiefs in Assembly passed BCAFN Resolution 03(d)/2013 which endorses and supports the *Declaration & Protocol of Recognition, Support, Cooperation and Coordination* between the BC Assembly of First Nations, as a part of the First Nations Leadership Council, with the Native Courtworker and Counselling Association of British Columbia (NCCABC);
- D. In 2013, The NCCABC developed the Social Justice Policy Platform and Strategic Plan, which includes a commitment to create a BC Aboriginal Justice Council. In October 2013, the NCCABC also created the *"Better Outcomes for Aboriginal People and the Justice System: An NCCABC Strategy Framework to Reduce the Overrepresentation of Aboriginal Children, Youth and Adults in the Child Protection and*

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Criminal Justice System in BC". Both documents form the need and basis for the NCCABC's work to establish a BC Aboriginal Justice Council;

- E. The BC Assembly of First Nations Chiefs in Assembly passed BCAFN Resolution 04(c)/2014 *Support for the Formation of a BC Aboriginal Justice Council* which directs the Regional Chief to work with the NCCABC, and members of the FNLC, to establish a BC Aboriginal Justice Council and to appoint an interim technical team to provide support to the BC Aboriginal Justice Council;
- F. The interim technical team, composed of technical staff from the BCAFN, UBCIC, FNS, and NCCABC, developed the BC Aboriginal Justice Council draft Terms of Reference (attached); and,
- G. The draft Terms of Reference outlines a process for the interim technical team to support the appointment of members to the BC Aboriginal Justice Council. If endorsed, the BCAFN, UBCIC, FNS, and NCCABC will begin a process for identifying members, develop a workplan, and seek funding and resources to support the BC Aboriginal Justice Council.

THEREFORE BE IT RESOLVED THAT:

- 1. The Chiefs in Assembly hereby endorse the attached draft Terms of Reference for the BC Aboriginal Justice Council;
- 2. The Chiefs in Assembly direct the BCAFN Regional Chief to:
 - a. Appoint members to the BC Aboriginal Justice Council as per the draft Terms of Reference; and,
 - b. Work with the First Nations Summit, Union of BC Indian Chiefs, and Native Courtworkers and Counselling Association of BC to develop a draft BC Aboriginal Justice Council Workplan, and seek funds and resources to support the work of the BC Aboriginal Justice Council.

ATTACHMENT:

- BC Aboriginal Justice Council Draft Terms of Reference- Working Draft V.3

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SUBJECT: CONTINUED ENGAGEMENT BETWEEN THE PROVINCE OF BC AND FIRST NATIONS ON A FOREST AND RANGE REVENUE SHARING AND TENURE SOLUTION

MOVED BY: CHIEF MAUREEN CHAPMAN, SKAWAHLOOK FIRST NATION

SECONDED BY: CHIEF BYRON LOUIS, OKANAGAN INDIAN BAND

DECISION: CARRIED BY CONSENSUS AS PART OF OMNIBUS RESOLUTION 05/2014

WHEREAS:

- A. In 2002, the Province of British Columbia embarked on a forestry revenue sharing process called Forest and Range Agreements. A per capita sharing of \$500/per person was unilaterally imposed and the forest licenses were economically unviable;
- B. In 2009, the Province undertook a Forestry Roundtable to discuss and make recommendations for changes to the forest sector. These recommendations included input from First Nations. The Province responded to a few of the First Nations recommendations (and ignored others) and then publicly announced they came to a solution with First Nations;
- C. In 2010, the Province unilaterally developed a new forestry agreement process and template to be used with First Nations called Forest and Range Consultation and Revenue Sharing Agreements (FCRSA). The Province decided to share stumpage revenues based upon a percentage of wood harvested within the First Nations territories. In most cases, the amount of resource revenue sharing was reduced from the original formula of \$500 per person;
- D. In 2012 the bi-partisan Special Committee on Timber Supply made recommendations on how the provincial government could take action to enhance mid-term timber supply. One of the

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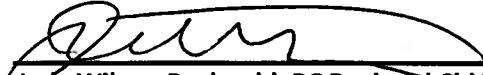
recommendations of this committee was to pursue the concept of converting existing volume-based tenures to area-based tenures;

- E. On April 1, 2014, the provincial government initiated a public engagement process to explore area-based tenures further. Limited public engagement sessions were held in BC in order to prepare a final report with 35 recommendations for government to consider should a decision be made by the province to proceed specifically with amendments to the *Forest Act* that would enable the conversion of some volume based forest tenures to area-based forest tenures;
- F. In August, 2014, the province announced that they would not be proceeding in the immediate term with legislative changes that would enable forest licence conversions in fall 2014 or spring 2015. The province purported to have made this decision to allow for the more fulsome discussion of any proposed changes and in light of the recent Supreme Court of Canada *Tsilhqot'in* decision;
- G. At present this more fulsome discussion between First Nations in BC and the province has not occurred; and,
- H. The provincial government approach to forestry policy and agreements with First Nations has never been consistent with the common law.

THEREFORE BE IT RESOLVED THAT:

- 1. The Chiefs in Assembly continue to reject unilaterally developed forestry resource revenue and tenure sharing allocation by the Province of British Columbia;
- 2. The Chiefs in Assembly direct the BCAFN and the BC Regional Chief to work with the First Nations Forestry Council to:
 - a) Continue to engage BC in developing new forms of forestry tenure and revenue sharing, including; and,
 - b) Work to convene a strategy session for First Nation tenure holders in January 2015.

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Jody Wilson-Raybould, BC Regional Chief