OUR LAND IS OUR FUTURE

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UNION OF B.C. INDIAN CHIEFS
CHIEFS COUNCIL
NOVEMBER 22ND- NOVEMBER 23RD, 2011
VANCOUVER, B.C.

Resolution no. 2011-51

RE: Intervention in Nuu-chah-nulth Commercial Fishing Rights Litigation
(*Ahousaht et al. v. Canada)*

WHEREAS in a decision released on November 3, 2009, the B.C. Supreme Court held that five Nuu-chah-nulth Nations have Aboriginal Rights to fish and sell any species of fish available to them in their respective territories (the "BCSC Decision"). The BCSC Decision also held that Canada's regulatory regime relating to commercial fishing infringes the Nuu-chah-nulth Aboriginal Rights;

WHEREAS in a decision released May 18, 2011, the B.C. Court of Appeal (BCCA) substantially upheld the BCSC Decision (although excluded geoduck from the Nuu-chah-nulth rights);

WHEREAS Canada has applied to the Supreme Court of Canada (SCC) for leave to appeal the BCCA Decision;

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

Article 20

1. Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.
2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.

Article 26

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

WHEREAS the BCSC and BCCA decisions are significant wins not only for the Nuu-chah-nulth nations but for all British Columbia First Nations who, for centuries, have maintained traditional economies through the trade and sale of fish. Thus, an appeal of the BCCA decision, if the SCC grants leave, is of great interest to British Columbia First Nations;

WHEREAS the decision of the SCC, if leave is granted, will shape the law on Aboriginal commercial fishing rights generally and intervention by First Nations on behalf of Nuu-chah-nulth Nations will be extremely useful to maintain Nuu-chah-nulth success.

THEREFORE BE IT RESOLVED the UBCIC Chiefs Council fully supports the B.C. Supreme Court and B.C. Court of Appeal decisions in *Ahousaht et al. v. Canada*;

THEREFORE BE IT FINALLY RESOLVED the UBCIC Chiefs Council directs the UBCIC Executive to seek resources in order to apply for Intervenor Status in the event an appeal is granted by the Supreme Court of Canada.

Moved: **Chief Les Sam, Tseshaht First Nation**
Seconded: **Chief Dalton Silver, Sumas First Nation**
Disposition: **Carried**
Date: **November 22nd, 2011**