

UNION OF BC INDIAN CHIEFS

FACSIMILE TRANSMITTAL SHEET

TO:	Premier Campbell and Ministers	FROM:	Grand Chief Stewart Phillip
COMPANY:	Union of BC Indian Chiefs	DATE:	7/30/2009
FAX NUMBER:	(604) 684-5726	TOTAL NO. OF PAGES INCLUDING COVER:	3
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RE:		YOUR REFERENCE NUMBER:	

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

TO: Office of the Premier

CC: Aboriginal Relations and Reconciliation
Advanced Education and Labour Market Development
Agriculture and Lands
Attorney General
Children and Family Development and Minister Responsible for Child Care
Citizens' Services and Minister Responsible for Multiculturalism and the Public Affairs Bureau
Community and Rural Development
Education and Minister Responsible for Early Learning and Literacy
Energy, Mines and Petroleum Resources
Environment
Finance and Deputy Premier
Forests and Range and Minister Responsible for Integrated Land Management Bureau
Health Services
Healthy Living and Sport
Housing and Social Development
Labour
Public Safety and Solicitor General
Small Business, Technology and Economic Development
Tourism, Culture and the Arts
Transportation and Infrastructure

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July 30, 2009

Dear Premier Campbell and Ministers,

Re: Re: Implementing the New Relationship and the Legislative Initiative

We are writing to clarify the UBCIC's position regarding pursuing Recognition and Reconciliation Legislation based on the Discussion Paper on Implementing the New Relationship (the "discussion paper").

The UBCIC has fought long and hard for the recognition by the Crown of Aboriginal title in British Columbia, and for respect for our laws and governments. The New Relationship is regarded as a good step in the right direction, and our communities watched and waited with much hope, for the implementation of the Vision. To our bitter disappointment, the Province failed to implement the spirit and intent of the New Relationship. By way of examples, notwithstanding the decisions of the Court, including the *Huu-ay-aht* case¹, where the Court found that the revenue and benefit sharing formula for the FRAs/FROs constituted bad faith negotiations, the Province refused to even discuss revenue and benefit sharing for forestry agreements on any other basis. Nor has the Province been prepared to discuss the sharing of a percentage of gaming revenue as an example of a commitment to revenue sharing to accommodate the economic component of title. There has been no implementation of the jurisdictional component of title, either. The present Environmental Assessment Review Process is the most blatant example of unilateral Crown decision making which is used to veto our Aboriginal title and rights interests as big projects are permitted to proceed, over our objections and often to the detriment of the land itself. The Province continues to rely on discredited *terra nullius* theories in litigation defences – such as in the *Jules and Wilson* litigation, where the Province pleads that the Browns Creek Watersheds are vacant Crown land.

When the conduct of the Province did not produce concrete and far-reaching change on the ground, the UBCIC supported legislative change as a tool to bring about systemic change in Provincial Crown conduct from denial to title recognition. This led to the discussion paper.

The discussion paper has been brought to our members for discussion, and we have had considerable feedback at Regional Forums, community meetings, and at meetings held by the UBCIC. The response from our members is clear: there are concerns about concepts in the discussion paper,

¹ *Huu-Ay-Aht First Nation v. British Columbia (Minister of Forests)*, [2005] B.C.J. No. 1062, [2005] 3 C.N.L.R. 74.

and UBCIC members do not support legislative drafting based on it. This point was made most emphatically at the last Chiefs Council meeting. A resolution, designed to improve the process for First Nations' review and debate of any proposed legislation was defeated, based on a debate which was in opposition to the discussion paper initiative. The Chiefs stated that the process which led to the discussion paper and which was proposed for legislative drafting was not sufficiently inclusive.

The UBCIC has now made clear to our members, and we wish to make it clear to you and to your Government, that the UBCIC has withdrawn from the legislative initiative based on the discussion paper. We will continue to attend the Regional Forums and other community meetings as observers, to witness and listen to the concerns of the community membership and leaders. UBCIC also continues to support the spirit and intent of the Leadership Accord, and all other initiatives attached to this collective effort, including the Forestry Council, Fisheries Council, Economic Development Council, Energy and Mining Council, Children and Family Wellness Council and Health Council.

We will now consider all options for the implementation of the New Relationship at the upcoming All Chiefs forum in August, and the UBCIC General Assembly scheduled for mid-September. Make no mistake; the UBCIC shall continue to utilize all means to achieve a just resolution of the Land Question in B.C.

Over the summer, we ask you to consider solutions so that we might have success in our future conversations. The problem which has been expressed many times in discussions about the discussion paper is a widespread distrust of the Province. This has been said a number of ways – but what is disturbing, even enraging, to those who raise this concern, is the Province's inability or unwillingness to substantively change from status quo behaviour, especially since 2005. First Nation leaders point out correctly that while there are systemic shifts that might best be achieved through legislation, legislation is not needed for the Province to change its conduct, by providing different honourable recognition-based negotiation and litigation mandates consistent with the New Relationship Vision and decisions of the Courts. Outdated Provincial denial policies can give way today, to the policy expressed in the New Relationship. Engaging in discussions with the FNLC is not a substitute or reason for the Province to delay. New opportunities for reconciliation must emerge. First Nations are waiting for the Province to engage with them respecting Aboriginal title, including our laws and jurisdictions, sharing lands and resources and revenue and benefits derived from our lands and resources, and addressing past and ongoing interferences. The Province should have taken such actions a century ago, and there is no honourable basis for not doing so today.

Sincerely,

A handwritten signature in black ink, appearing to read 'Stewart Phillip', written in a cursive style.

Grand Chief Stewart Phillip
President