OUR LAND IS OUR FUTURE

UNION OF BRITISH COLUMBIA INDIAN CHIEFS

FOUNDING HEAD OFFICE
209 - 345 Yellowhead Highway
Kamloops, B.C. V2H 1H1
Tel: 250-828-9746
Fax: 250-828-0319

VANCOUVER OFFICE
5th Floor, 342 Water Street
Vancouver, B.C. V6B 1B6
Tel: 604-684-0231
Fax: 604-684-5726
1-800-793-9701
Email: ubcic@ubcic.bc.ca
Web: www.ubcic.bc.ca

UNION OF B.C. INDIAN CHIEFS
43RD ANNUAL GENERAL ASSEMBLY
SEPTEMBER 14TH – SEPTEMBER 16TH, 2011
WHISTLER, B.C.

Resolution no. 2011-33

RE: Consultation on Changes to the *Clean Energy Act*

WHEREAS Indigenous Nations have always held and continue to hold Title to the lands and resources within their respective Territories;

WHEREAS Aboriginal Title and Rights exist in BC and have never been extinguished and therefore are a burden on any Crown title that may be held by the Province of British Columbia;

WHEREAS the Government of British Columbia completed a review of BC Hydro in late June in order to provide recommendations and options for minimizing the rate increase, and as a result of the BC Hydro Review, the Ministry of Energy and Mines is now working on making amendments to the *BC Clean Energy Act*;

WHEREAS the key amendment being proposed to the BC *Clean Energy Act* is to change the self-sufficiency provisions which currently require BC Hydro to be self-sufficient by 2016 at critical water levels, which will have the effect of reducing the need to acquire local renewable generation and may reduce or eliminate the need for clean power calls;

WHEREAS clean energy projects provide significant economic, environmental and social benefits to BC First Nations;

WHEREAS the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP), adopted September 13th, 2007 by the UN General Assembly, recognizes that Indigenous peoples have the right to self-determination under international law, which includes rights to autonomy in relation to internal affairs, and rights to freely determine their political status and pursue economic, social and cultural development;

Certified copy of a resolution adopted on the 15th day of September of 2011 in Whistler, British Columbia

Grand Chief Stewart Phillip, President

WHEREAS the UNDRIP also affirms Indigenous rights to own, use, develop and control lands and resources, and requires states to give legal recognition and protection to these rights, through, *inter alia*, obtaining their free, prior and informed consent before adopting legislative or administrative measures affecting Indigenous peoples and before approving any project affecting their lands and resources;

WHEREAS the Crown has a duty to consult, and where appropriate, accommodate when the Crown contemplates conduct that may adversely impact potential or established constitutionally protected Aboriginal or Treaty rights. This duty is grounded in court decisions including the Haida and Taku River decisions in 2004 and the Mikisew Cree decision in 2005, and arises from the Honour of the Crown and the Crown's relationship with Aboriginal peoples;

WHEREAS the Government of British Columbia originally passed the BC *Clean Energy Act* on June 3, 2010 without consultation with First Nations;

WHEREAS prior to the passing of the *Clean Energy Act*, in May 2010, the First Nations Leadership Council issued a statement from 47 participating First Nations expressing concerns with the proposed *Clean Energy Act*. At that time, the leaders asked for the opportunity to provide amendments prior to the passage of the bill and the government flatly refused to allow for amendments by First Nations; and,

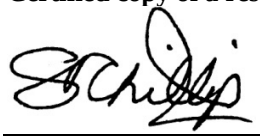
WHEREAS amendments to the *Clean Energy Act* are being made, once again, without consultation with First Nations as is required by law and in keeping with the Honour of the Crown and the spirit of reconciliation.

THEREFORE BE IT RESOLVED the UBCIC Chiefs-in-Assembly direct the UBCIC Executive to immediately and on a priority basis work with the BC Assembly of First Nations and the First Nations Summit to meet Minister Coleman and Premier Clark and ensure there is an adequate process initiated for consultations with First Nations on any amendments to the BC Clean Energy Act;

THEREFORE BE IT FURTHER RESOLVED that in particular, the UBCIC Chiefs-in-Assembly direct the UBCIC Executive to communicate to the Government of BC that any amendments to the *Clean Energy Act* must provide for economic, environmental and social benefits for First Nations and opportunities for development of clean energy projects within their environmental standards.

Moved: **Chief Don Harris, Douglas First Nation**
Seconded: **Chief Nelson Leon, Adams Lake Indian Band**
Disposition: **Carried**
Date: **September 15th, 2011**

Certified copy of a resolution adopted on the 15th day of September of 2011 in Whistler, British Columbia



Grand Chief Stewart Phillip, President

Background

The Government of British Columbia completed a review of BC Hydro in late June in order to provide recommendations and options for minimizing the rate increase. It appears that the Minister of Energy of Mines (Rich Coleman) is moving to have the *Clean Energy Act* amended. The key amendment is to change the Self-sufficiency provisions and have it pegged to Average Water versus Critical Water. The messaging will be that this is part of the package to reduce hydro rates going forward (to help families) because it will push forward the date at which new electricity will need to be acquired.

This change to the self-sufficiency provision could have the effect of reducing need to acquire 5,000 – 8,000 GWHs meaning a power call will not be needed for a long while.

A policy change hurts the Clean Energy sector and it could also hurt economic development progress and prospects of several First Nations that currently involved in this sector.

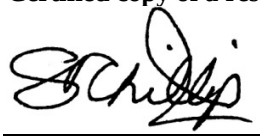
In May 2010, the First Nations Leadership Council issued a joint statement from 47 participating First Nations expressing concerns with the proposed *BC Clean Energy Act*. The leaders asked for the opportunity to provide amendments prior to the passage of the bill. The government refused to delay the passing of the legislation to allow for amendments by First Nations.

A subsequent meeting was held on June 1, 2010 with members of the Leadership Council and the Ministers of Aboriginal Relations and Reconciliation and Energy Mines and Petroleum Resources. At this meeting the First Nations expressed their disappointment in the approach that the government took in creating the Act and the lack of substantial content within the Act to support First Nations' full involvement in the clean energy sector. The government officials made a commitment to establish a table to further discuss the concerns of the First Nations and in particular the gaps between the First Nations recommendations prior to the passing of the legislation and what ultimately ended up in the Clean Energy Act.

Amendments to the *Clean Energy Act* are being made, once again, without consultation with First Nations as is required by law and in keeping with the Honour of the Crown and the spirit of reconciliation.

The *Clean Energy Act* is provincial policy that affects all First Nations.

Certified copy of a resolution adopted on the 15th day of September of 2011 in Whistler, British Columbia



Grand Chief Stewart Phillip, President **2011-33**