OUR LAND IS OUR FUTURE

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Union of B.C. Indian Chiefs
CHIEFS COUNCIL
MARCH 9TH - 10TH, 2011
VANCOUVER, B.C.

Resolution no. 2011-11

Re: Rights of Way through First Nations Territories

WHEREAS since British Columbia joined Confederation, the Province has disregarded the common law, and illegally taken up our lands and resources in the absence of treaties throughout much of the Province. The Province assumed control over our territories, and embedded in all provincial land laws and policy, a claim to full ownership and jurisdiction over all lands and resources, all the while denying the existence of Aboriginal Title;

WHEREAS in 1888, the Privy Council held that the lands, mines, minerals and royalties of the Province, are not available to the Province as a source of revenue, until Aboriginal Title is dealt with. The Courts have also affirmed that under Section 91(24) of the *British North America Act*, it is the federal government who has jurisdiction and the primary relationship with Indigenous Nations on behalf of the Crown;

WHEREAS in 191l, the Federal Government sought a court reference to clarify the Province's land laws and denial policy but the Province refused to co-operate with a Court making a decision about their sovereignty assertions;

WHEREAS the Supreme Court of Canada has impugned the Province's sovereignty assertions in *Delgamuukw* holding that Aboriginal Title has not been extinguished in B.C.; that Aboriginal Title co-exists with Crown title; that it is a pre-existing legal right to the land; and that it is a collective right and has a jurisdictional and economic component. Further, the Court in *Haida*, confirmed that constitutional "Honour of the Crown" obligations arose with the assertion of sovereignty, which includes duties of honourable engagement when the Crown contemplates decisions which affect Aboriginal Title, as well as treaty negotiation and implementation;

WHEREAS one expression of the Province's denial of the existence of Aboriginal Title has been the taking up, without consent, agreement, or meaningful engagement large areas of our Territories for Rights

of Way for a range of public utilities and private interests, including highways, pipelines, transmission corridors and infrastructure, telecommunications networks, water and railways;

WHEREAS the Province has not acknowledged the economic component of Aboriginal Title on the rights of way land through revenue sharing or appropriate economic benefits;

WHEREAS the impacts of these rights of way have been massive, including the disruption and dislocation of our economies, destruction of village sites and heritage resources, interference with our way of life, and irreparable damage to our environments;

WHEREAS the Province continues to seek to expand and extend the Rights of Way through our Territories without honourable engagement aimed at addressing our Title and Rights, and while denying and ignoring the past, existing and on-going infringements of the existing Rights of Way;

WHEREAS provincial processes, such as the Province's Environmental Assessment process, continue to be an inappropriate and insufficient forum for meaningful consultation and accommodation, which has the effect of exacerbating conflict, and results in the granting of uncertain and legally deficient tenures;

WHEREAS highways, railways, utilities and Crown Corporations, such as BC Hydro, continue in nearly all instances to refuse to address the impacts of their past and on-going conduct, and continue to pursue new Rights of Way, such as for the Interior to Lower Mainland Transmission Line, in a manner that does not discharge legal obligations, or recognize or respect First Nations;

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WHEREAS First Nations across the Province have been actively working to protect their Territories from further destruction by the granting of new Rights of Way for public utilities and private interests;

THEREFORE BE IT RESOLVED that the UBCIC Chiefs Council supports First Nations seeking to address the interference caused by all Rights of Way through their Territories whether past, existing, or proposed;

THEREFORE BE IT FINALLY RESOLVED the UBCIC Chiefs Council directs the UBCIC Executive to send a letter to the Premier-designate highlighting the Province's dishonourable conduct and calling for immediate steps to be taken to address outstanding issues related to past and existing rights of way in First Nations territories, and new processes to address potential future rights of way.

Moved: **Chief Ko'waintco Michel, Nooaitch**
Seconded: **Chief Judy Wilson, Neskonlith First Nation**
Disposition: **Carried**
Date: **March 10, 2011**