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. 2011-07

RE: First Nations Draft Provincial Consultation and Accommodation Policy

WHEREAS First Nations have always, and continue to hold, Aboriginal title to the lands and resources within their respective territories. The Supreme Court of Canada has also confirmed that Aboriginal title has an "inescapable economic component", and title-holders have the right to the exclusive use and occupation of the land and to choose the uses to which the land is put;

WHEREAS the court rulings *Haida* and *Taku* require the provincial and federal government to fulfill their duties to act honourably toward all First Nations through meaningful consultation and accommodation, and through good faith negotiations aimed at reconciliation of Aboriginal sovereignty, title and asserted Crown sovereignty;

WHEREAS BC First Nations continue to challenge the inadequate consultation and accommodation policies of the provincial government, and support updating the 2002 *Provincial Policy for Consultation with First Nations* (UBCIC Resolution 2009-56 and FNS Resolution #0910.14);

WHEREAS the United Nations *Declaration on the Rights of Indigenous Peoples* ("the Declaration") 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 Indigenous peoples "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 on May 7, 2010 the Province of British Columbia released a document titled, "Updated Procedures for Meeting Legal Obligations When Consulting First Nations- Interim" (the "Policy"). Contrary to the vision of the New Relationship, the Province unilaterally developed the Policy without consultation with First Nations;

WHEREAS the legal duty to consult and accommodate First Nations for infringements to unextinguished Aboriginal Title and Rights, and Treaty Rights, is a burden on asserted Crown title. Consultation is only

an **interim step** in the process of reconciliation. The Policy entrenches the Province's status quo legal positions, avoids reconciliation, and is contrary to decisions of the Supreme Court of Canada;

WHEREAS First Nations in British Columbia wish to develop a framework or set of guidelines for government-to-government consultation and accommodation that reflects First Nations principles and standards for engagement, values, Aboriginal title and rights, the Canadian common law and relevant international standards. Recognizing that the development of such a policy would be time consuming and costly, a specific and separate source of funding must be secured;

THEREFORE BE IT RESOLVED that the UBCIC Chiefs Council implements option one from Louise Mandell's September 15, 2010 analysis of the Province of British Columbia's May 7, 2010 Document: *Updated Procedures for Meeting Legal Obligations When Consulting First Nations*- Interim (the "Policy"), by directing the UBCIC Executive to create a First Nations Provincial Consultation and Accommodation Policy for the Chiefs to review. This policy should rely on what the case law requires and fundamentally be a policy premised on Crown recognition of Aboriginal Title and Rights;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council supports community driven, Nation-based, First Nations-created government-to-government consultation and accommodation, and jurisdiction policies;

THEREFORE BE IT FURTHER RESOLVED that the UBCIC Executive provides a progress report on the First Nations provincial consultation and accommodation policy to the UBCIC Chiefs Council within six months;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council directs the UBCIC Executive to work with the BC Assembly of First Nations and the First Nations Summit to establish a working group to consider an overall First Nations approach for Crown consultation and accommodation of First Nations legal interests;

THEREFORE BE IT FINALLY RESOLVED the UBCIC Chiefs Council direct the UBCIC Executive to secure a separate source of funding to support this initiative.

Moved: **Chief Maureen Chapman, Skawahlook First Nation**
Seconded: **Chief Greg Blaine, Ashcroft Indian Band**
Disposition: **Carried**
Date: **March 10, 2011**