

# **BRITISH COLUMBIA ASSEMBLY OF FIRST NATIONS**



## **REGIONAL CHIEF'S QUARTERLY REPORT**

**September 2011**

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## PART ONE: *BUILDING ON OUR SUCCESS* – IMPLEMENTING THE PLAN

Our focus at the British Columbia Assembly of First Nations (BCAFN) continues with implementation of the *Building on OUR Success* platform. Our Action Plan is moving forward to empower, connect and support our Nations as we strategize and work together to achieve our goals of self-determination within our individual communities. The four key and interrelated areas of the Action Plan are:

1. **Strong and Appropriate Governance** in order to take advantage of our opportunities in implementing our Aboriginal title and rights, including treaty rights, and grow our economies by providing stable and sound governance that is transparent and accountable to our Citizens;
2. **Fair Land and Resource Settlements** to ensure our peoples and our governments have access to the resources required to support our societies including both our traditional and modern economies;
3. **Improved Education** to ensure our Citizens are able to make informed decisions about change as well as participate in our growing economies and our governments; and,
4. **Individual Health** to address the colonial health legacies to ensure our Citizens are strong and can actually benefit from and enjoy their title and rights.

Building on our priorities and developing a strategy to move beyond the *Indian Act* and create healthier and stronger communities, we are actively engaging in a number of initiatives and looking for partnerships and support. We are in an exciting period of Nation building or Nation re-building and it has started from the ground up.

### 1. Strong and Appropriate Governance



***“Strong and appropriate governance is necessary if our Nations are to reach our full potential and maximize our opportunities. This is a prerequisite to sustainable and long-term economic development.”*** *Building on OUR Success*

***BCAFN Special Chiefs’ Assembly and BCAFN Governance Toolkit Launch:*** I am very pleased to report that the BCAFN successfully launched the 1st edition of the *BCAFN Governance Toolkit: A Guide to Nation Building* at our *Building on OUR Success* Special Chiefs’ Assembly – *Strong and Appropriate Governance* and 8<sup>th</sup> Annual General Meeting on June 22-24, 2011. The Toolkit is a comprehensive guide intended to assist our Nations in building or rebuilding governance and navigating their way out from under the *Indian Act* at their own pace and based on their own priorities. A copy of the Toolkit was provided to Chiefs or Chiefs’ proxies at the Special Chiefs

Assembly. For those that were not in attendance a copy was couriered to each Nation. The Toolkit is also available electronically on the BCAFN website, [www.bcafn.ca](http://www.bcafn.ca), and can be downloaded in its entirety. Our website also includes most of the primary documents that are referenced in *Part I: The Governance Report*. As there are only a few printed copies of the Toolkit left, the BCAFN is seeking additional resources for a second print run of the 1<sup>st</sup> edition of the Toolkit.

The Toolkit includes a number of parts. The core of the Toolkit is a comprehensive *Governance Report* that looks at options for governance reform and considers, subject-by-subject, the powers (jurisdictions) of our Nations. The Report is written from the perspective that the Nation is the building block of governance and that our Nations have the inherent right to govern. It looks at how we are moving in this direction along a continuum of governance options and reforms by providing a snapshot of what our Nations in BC are actually doing.

The *Governance Report* has been designed as a “guide” for navigating the issues of governance in relation to our peoples and our Nations. The Report is divided into four sections.

***Section One – Options for Governance Reform*** provides a concise history of our Nations’ governance as it has developed within Canada, and the broad options currently available to our Nations to develop governance. These are: (1) incremental jurisdiction under the *Indian Act*; (2) sectoral governance initiatives; and (3) comprehensive governance arrangements.

***Section Two – Core Institutions of Governance*** considers the institutions that are central to governance, including the structures of a Nation’s government, the governing body and the citizens. This section also considers the development of a Nation’s constitution.

***Section Three – Powers (Jurisdiction) of the Nation*** addresses the range of powers (jurisdictions) by subject matter. This includes cases where our Nations’ governments are already exercising law-making authority or may be considering exercising law-making authority. The subject matters are arranged alphabetically and indexed and tabbed into 33 chapters for ease of reference.

***Section Four – Financing First Nations’ Governance*** considers one of the most challenging aspects of rebuilding our Nations, namely how it will be paid for and the need to expand revenue options for our Nations. This section looks at the sources of our revenues and the broader questions concerning our fiscal relations with Canada and BC.

The Toolkit also includes a *Governance Self-Assessment* (Part II) in two modules that your Nation can use to evaluate 1) the effectiveness of your institutions of governance, and 2) the effectiveness of your administration. The evaluation is an important exercise that any Nation can undertake to identify what is working well and what not so well, and where the institutional framework may be deficient and where there are gaps, both in terms of the institutions of governance and of the powers of government that may need to be advanced. The third part is

*A Guide to Community Engagement* (Part III) that can assist your Nation to begin or continue discussions with your citizens about the importance of good governance and options for governance reform, including moving beyond the *Indian Act*. The self-assessment and the community engagement parts of the Toolkit continue to be developed and piloted and will be released in final form to all Nations later this year.

I am pleased to say that the Governance Toolkit has been developed in-house by the BCAFN with the support and contributions of many individuals and organizations. Drafts of the Governance Report were reviewed by peer groups and the self-assessment modules have been, and will continue to be, piloted in a number of our communities and revised where appropriate based upon feedback and dialogue.

The agenda for the June 24<sup>th</sup>-25<sup>th</sup> Special Chiefs' Assembly was designed around the Toolkit and was a tremendous success with over 200 people in attendance and 99 Chiefs or Chiefs' proxies registered. The Assembly brought together over 25 of our own governance experts from our First Nations' communities to participate on panels and share their experiences. Panel discussions included; 'Evolving First Nations' Governance in Canada', 'Core Institutions of Governance', 'The Constitution', 'Community Engagement', 'The Powers (Jurisdictions) of the First Nations – Child and Family; Education, Health, and Heritage and Culture', 'Land Management', 'Natural Resources' and 'Financing First Nations' Governance'. We were also pleased to welcome three keynote speakers: Satsan (Herb George) President of the National Centre for First Nations Governance, National Chief Shawn A-in-chut Atleo, and the Right Honourable Paul Martin. The BCAFN is compiling a document of "What We Heard" at the Special Chiefs' Assembly/AGM. This along with the presentations from our panelists (where provided) and photographs of the event will be found on our website.

The Toolkit has been very well received. We have had a great response from those in attendance and since the Special Chiefs Assembly and the AGM, both from within BC and nationally. In BC, there is no question that our Nations have many stories to tell and we have much Nation building efforts and experience to share, not only between ourselves but with other Nations across Canada. What was important for me about our Special Chiefs' Assembly was that it was our communities telling their stories, sharing their successes and engaging in dialogue between and among one another. We are doing amazing things here in BC, which is very evident when reading through the Toolkit.

Thank you again to all those people who helped to make this project possible and for all the contributions to the Toolkit and in particular the contributions for the *Governance Report*. I truly hope the Toolkit will be a practical and useful resource for your Nation during this exciting period of change and of Nation building.

**BCAFN Governance Toolkit Next Steps:** Moving forward, the BCAFN will continue to refine and expand the Toolkit and support our Nations in their Nation building efforts. We will continue to facilitate discussions around the concept of governance, self-governance, and the Governance

Toolkit with interested First Nation communities. The BCAFN will work to complete our initial self-assessment pilots and is looking at identifying several more of our Nations who are wishing to participate in pilot sessions. If your Nation is interested in starting or continuing to have governance discussions in your community please contact the BCAFN office.

It is also our intention to continue to help build capacity in First Nations' communities by developing a facilitator's/implementation guide for using the Toolkit and the relationship between and among all of its constituent parts. This facilitator's/implementation guide will assist 'Community Champions' (community facilitators) in working through the Governance Toolkit, specifically with respect to *The Governance Report*, and in ensuring that our citizens are engaged and supportive and ultimately directing change. Subject to funding, we intend to host a number of workshops throughout BC to introduce the facilitation/implementation guide to identified community champions. Workshops will introduce participants to the benefits of strong and appropriate governance and will include an overview of the various governance initiatives/options available to First Nations (as detailed in *The Governance Report*). This will include *Indian Act* governance, sectoral governance initiatives, comprehensive governance arrangements and other activities. Most importantly, these workshops will focus on the core institutions of governance including: the Citizens, the Governing Body and the Constitution. By bringing community champions together, we hope to assist in creating a 'peer support group', facilitate information-sharing, and build community capacity to undertake governance initiatives from within our Nations without the need to hire consultants – the ultimate objective being to empower and support our own citizens on the ground in our communities. If you or someone in your Nation is interested in participating please contact the BCAFN office.

**AFN - Annual General Assembly, Moncton, NB – July 12-14, 2011:** The AFN held our 32<sup>nd</sup> Annual General Assembly (AGA) on July 12-14, 2011 in Moncton, New Brunswick. The theme of this Assembly was "*The Spirit of Peace and Friendship*". A total of 38 resolutions were passed at the Assembly, with an additional six having been referred to and subsequently approved by the national executive. Resolutions are available on the AFN website.

The Assembly took on a new approach to the agenda this year based on direction from First Nations seeking to maximize political dialogue and deliberation and provide an opportunity to engage directly with each other on key issues. The mornings of Day Two and Three were dedicated to regional caucus sessions followed by strategy session on topics such as health and wellness, claims and land rights, education, residential schools, supporting First Nation governments, environmental and economic partnerships and community development and safety. I had the opportunity to chair the strategy sessions on supporting First Nation governments and claims and land rights, both of which considered resolutions which were brought forward and passed by the Chiefs in Assembly.

As directed by our Chiefs, the identified priorities for the AFN this fall will be focused on four key areas: 1) asserting our rights and affirming our responsibilities, 2) advancing the National Treaty Strategy, 3) education, and 4) community safety and security, including safe drinking water.

As usual there was a good representation of Chiefs and Chiefs' proxies from British Columbia at the AGA and our regional caucus sessions were well attended. Our representation at the Assembly and the input of our BC Chiefs proves, once again, that BC First Nations continue to be at the forefront of title and rights, governance and implementation issues across Canada. I would like to express my appreciation to all the BC Chiefs, proxies and observers in attendance for your leadership and commitment throughout our national Assembly.

***AFN Portfolio - First Nation Governments and Nation Building:*** In addition to the work in the BC region to advance strong and appropriate governance, I continue to participate in national governance related activities as the co-chair of the national AFN's First Nation Governments and Nation building portfolio.

At the Assembly in Moncton, our National Chief presented his forward looking document entitled "*Pursuing First Nation Self-Determination: Realizing Our Rights and Responsibilities*" for review and discussion by our Chiefs. This document sets out and discusses four key elements: 1) First Nation-Crown relationship, 2) new fiscal relationships, 3) implementation of First Nation governments, and 4) structural changes. The paper builds on the call at the 2010 AGA supporting all First Nations as they set their own paths moving away from the *Indian Act* towards true self-determination. As stated by National Chief Atleo, "The plan...is a reflection and culmination of what First Nation citizens and Chiefs have been consistently expressing to the AFN for many years through many forums. First Nations are all on a journey to self-determination. There are different approaches, circumstances and realities but it is a journey with a clear destination, a destination that affirms our rightful place in our lands and territories based on our rights, a destination that cherishes our children and creates a better future for them."

Based on the work we are doing here in BC in our respective Nations on the ground in advancing governance reform, I know that our Nations and BC will play a central role in informing this unfolding national discussion and movement for change. Transforming *Indian Act* governance is, as we are all aware, no small task. After years of living under the *Indian Act*, it is proving difficult for some of our Nations across Canada, as indeed it has been for the federal government, to shed the routine of colonialism and tackle the seemingly overwhelming task of Nation building. However, what is very encouraging is that despite the challenges, many of our Nations have already walked though, or are walking though the "post-colonial door" and are establishing strong and appropriate governance with their own institutions of governance and the range of powers they need to govern. While considerable work remains ahead in realizing our collective vision, we are well on our way.

In closing, one suggestion that is gaining some momentum is the possibility of federal 'recognition' legislation of our governance where a Nation chooses to govern outside of the *Indian Act*. This is not a new idea and was recommended by previous commissions and panels but politically was not possible. The time might now be right with advances in the courts and negotiations and with more practical experience of governance beyond the *Indian Act* to

develop such recognition legislation. We would need to consider what legal mechanisms are needed to facilitate a smooth transition from colonial governance arrangements under the *Indian Act* to arrangements based on the promise of section 35, the common law, and the spirit and intent of the United Nations Declaration on the Rights of Indigenous Peoples.

I look forward to this discussion and working with the National Chief, the national executive and our Chiefs across Canada in moving forward on Resolution 23/2011 which speaks to establishing a Joint Committee of Chiefs and Advisors, building on our regional diversity and priorities, and to assist our Nations to implement their inherent right to self-determination, consistent with Treaties, our inherent rights and jurisdiction.

**AFN National Citizenship Forum:** Citizenship is core to Nation building or rebuilding. It is a critical issue for all our Nations. As our communities take steps away from the confines of the *Indian Act* and continue on the path towards self-governance, discussions about citizenship become increasingly important as our citizens determine the essence of who we are as Nations. Through the AFN national and regional exploration processes on First Nations' citizenship we are aiming to encourage and support this very important dialogue. The AFN has hosted a number of virtual roundtables on First Nations citizenship, roundtables that will inform our national AFN citizenship forum this fall. The virtual roundtables have focused on a number of questions:

- 1) What does First Nation citizenship or citizenship in your Nation mean to you today? How is this different from your grandparents? Will it be different for your grandchildren?
- 2) What is your understanding of the roles and responsibilities of citizens and their governments?
- 3) How would you like to see your Nation move forward?
- 4) What tools are required to make change a reality?
- 5) In your opinion, can the arts be used as a tool to further the efforts of First Nations to move forward on citizenship?

As set out my previous Quarterly Report, some further questions, more personal in nature, you may wish to consider during you Nation's deliberations on this issue are:

- 1) What is most important to you 1) being a Citizen of your Nation 2) being a member of your Band 3) having Indian status? Why?
- 2) What criteria would you see for becoming a citizen of your Nation? How would this be different, if it is different, from determining membership in your band today?
- 3) How should we address the issue of dual citizenship and the movement of our citizens between Nations and their respective rights and responsibilities?
- 4) Can we define our rules for citizenship before we have recognized the need to reconstitute our governing structures beyond the *Indian Act*?

If you wish you may want to join the growing discussion on this issue at the AFN Citizenship Web Portal where you can find a wealth of resources on the topic of citizenship as it applies to our Nations (<http://firstnationscitizenship.afn.previewsite.ca/listing.html>). The AFN is trying to

use creative ways to communicate issues around citizenship and has made calls for multi-media submissions from our Nations, whether it is in musical, written, visual art, or dance form. It is important that our youth take part in this very important dialogue.

The National Exploratory Process on First Nations' citizenship includes a National Citizenship Forum to bring together our Nations to dialogue and share best practices on citizenship. The citizenship forum will take place at the Enoch River Cree Resort in Edmonton, Alberta on November 15-16, 2011. The theme of the Forum will be "*Our People, Our Nations: Planning for the Future*". The objectives of this forum are as follows:

- To equip every community to have their own discussion on citizenship and affirm their own approach forward through sharing tools and information;
- To provide support to First Nation governments through sharing experiences, examples and models for assuming jurisdiction over citizenship, including legislation and dispute resolution;
- To foster and support dialogue on identity, Nationhood and planning for the next seven generations, through facilitated discussion, and visual arts and performances;
- To examine approaches to equitable funding and appropriate protocols between First Nations and other governments; and,
- To develop recommendations for future action at the national level to facilitate and support First Nation governments.

For more information please stay tuned to the national website ([www.afn.ca](http://www.afn.ca)).

**First Nations-Crown Relations: Canada-First Nations Joint Action Plan:** In June, 2011, the National Chief and the AFN along with Canada announced a Canada-First Nations Joint Action Plan which identifies shared key priorities based on common goals and shared principles. The Joint Action Plan seeks to build on national initiatives in four key priority areas: education; accountability, transparency, capacity and good governance; economic development; and, negotiation and implementation. The Plan is intended to strengthen the Crown-First Nation relationship at the national level and will not adversely affect or impair any existing or new Crown - First Nations initiatives on a regional or local basis. The AANDC and the AFN are working towards hosting a First Nations-Crown Gathering in December 2011 or January 2012.

The Joint Action Plan was brought to our Chiefs in Assembly at the BCAFN Annual General Meeting on June 24, 2011 and was endorsed by our membership through Resolution 06c/2011. For a full more detailed look at the Joint Action Plan please see the AFN website ([www.afn.ca/index.php/en/news-media/current-issues/canada-first-nations-joint-action-plan2](http://www.afn.ca/index.php/en/news-media/current-issues/canada-first-nations-joint-action-plan2)). It was also endorsed by resolution at the AFN AGA in Moncton.

**Council of the Federation 2011:** On July 20, 2011, national Aboriginal leaders, including National Chief Atleo, met with Provincial and Territorial Premiers to discuss Aboriginal issues including a call for a full First Minister's Meeting on Aboriginal issues within 12 months. The Council discussions focussed on education, economic development, the high incidences of violence against Aboriginal women, and the need for concrete action to help Aboriginal communities cope with emergencies such as flooding and forest fires. National Chief Atleo,

National Inuit Leader Mary Simon President of the Inuit Tapiriit Kamatami, and Clement Chartier President of the Metis National Council, called upon all jurisdictions to fully commit to inter-governmental dialogue and a First Minister's Meeting that focuses on the exercise of jurisdiction in areas like education and economic development (including possible trade missions to Asia), and advancing Indigenous rights and strengthening Indigenous people and communities.

National Chief Atleo also said that focused attention and clear inter-governmental cooperation is urgently needed to confirm and advance key priorities for First Nations, noting that the Prime Minister has already agreed to a specific First Nation-Crown Gathering. A full First Ministers Meeting would be a forum to engage all parties in implementation of action plans on key priorities. This meeting is projected to be in December 2011 or January 2012.

***Changes to the Canadian Human Rights Act:*** In 2008, the government of Canada made significant changes to the *Canadian Human Rights Act* (CHRA). As discussed in previous Quarterly Reports, the CHRA is federal law which protects against discrimination on a number of different levels including gender, race, age, religion, disability and others. In 2008 the Government of Canada repealed section 67 of the CHRA which had previously exempted the application of the CHRA to the *Indian Act* or any provisions made under or pursuant to the *Indian Act*. The coming into force of the repeal of section 67 was delayed two years and therefore was officially removed on June 19th, 2011. The two year delay was to allow for First Nations and the Government of Canada to assess how the changes would impact our Nations. At the time of the passage of the legislation the AFN urged the government of Canada to consult directly with First Nations on the changes to the CHRA as it can impact lands, facilities as well as service and program delivery in our communities. A key concern for many of our communities was, and still is, capacity development and resources needed to ensure a smooth transition to the application of the CHRA in First Nations' communities. The federal government, unfortunately, has not signaled that it will provide any new funding for the transition.

The AFN has coordinated a number of initiatives to support First Nations with the change. On July 28th, in partnership with the Canadian Human Rights Commission, the AFN held a virtual roundtable presentation where participants were able to ask questions and have dialogue about the impacts of repealing Section 67. The Canadian Human Rights Commission is also coordinating a resource called "the Human Rights Handbook for First Nations." This is an important document and all administration offices should have a copy and consult it. An assessment of First Nations' needs under the CHRA has also been conducted by the AFN along with a "frequently asked questions" document. For further information please see the National AFN website or [www.doyouknowyourrights.ca](http://www.doyouknowyourrights.ca).

***Taxation Decisions:*** In a major victory for our people, on July 22, 2011, the Supreme Court of Canada issued two important decisions respecting individual tax exemptions: [\*Estate of Rolland Bastien v. The Queen \(2011 SCC 38\)\*](#) and [\*Alexandre Dubé v. The Queen \(2011 SCC 39\)\*](#). The question in both these cases was whether the interest income earned by two status Indians

who invested in term deposits at on-reserve financial institutions was immune from taxation under s. 87 of the *Indian Act*. The income had been assessed as taxable by the Canada Revenue Agency (CRA). Both the Tax Court of Canada and the Federal Court of Appeal agreed with CRA. The Supreme Court of Canada, however, did not and allowed the appeals finding that the income was tax-exempt. In doing so, the Supreme Court swept aside several long-standing decisions of the Federal Court of Appeal and the Tax Court that had narrowed the scope of the tax exemption to the point of near disappearance. Of particular importance is that the court has now clarified that property that is of a so-called “commercial” nature remains protected from taxation if it is located on reserve.

The court also set aside the much criticized line of thinking, prevalent in the lower courts for the past 20 years, that property must help “preserve the traditional way of life in Indian communities” for the *Indian Act* tax exemption to apply. This requirement, which is not found in the *Indian Act*, had repeatedly frustrated claims of tax immunity by our people. The AFN intervened in these cases.

**Parliamentary Update:** The House of Commons reconvened on September 19, 2011. The Senate is adjourned until September 27<sup>th</sup>. We expect the fall legislative session to be quite busy with the new majority government focusing on crime, the economy, a strategic operational review and deficit reduction, and senate reform. Specific to First Nations, it is anticipated that there will be resurrected legislative initiatives led by the federal government that will need to be addressed, in particular bills in relation to water, matrimonial property, elections and accountability. We will continue to monitor these developments, report to and work with our leadership and citizens to respond accordingly.

The AFN, as is now our practice, has also be prepared a pre-budget submission which will highlight three areas that require significant investments: (1) transforming the fiscal relationship, (2) First Nations’ education, and (3) investing in infrastructure and health services to support safe and healthy communities.

The AFN will be hosting its third advocacy day on Parliament Hill on September 29<sup>th</sup> where our Chiefs can engage in one-on-one meetings with Cabinet Ministers and Members of Parliament.

## 2. Fair Lands and Resources

Strong & Appropriate  
Governance  


Fair Lands &  
Resources  


Improved  
Education  


Individual  
Health  


***“Settlement of the land question remains fundamental to the overall success of our Nations in BC. Without adequate access to land and resources our Nations will never reach our full potential. In addition to sustaining our traditional practices, access to land and access to resources provides our capital – our equity – and therefore our ability to build our economies and support our government.” Building on OUR Success***

**Atlin Taku Framework Agreement (Land and Resource Management Plan):** Congratulations to the Taku River Tlingit First Nation on signing the Whóoshtin yan too.aat/Land and Resource Management and Shared Decision Making Agreement with the Province of BC on July 19, 2011. Under the terms of the Agreement, the Taku River Tlingit whose territory covers over 40,000 sq/km of northwestern British Columbia, the Yukon and Alaska, will have clear management direction and a defined decision-making process for future activities within the Atlin East, Atlin West and Taku South Regional Plan Areas. The Agreement creates new protected areas, a fish and wildlife management working group, improved land use certainty, and resource revenue sharing.

**Taseko Mines:** The Canadian Environmental Assessment Agency (CEAA) has formally accepted Taseko Mines' revised project description for its controversial Prosperity gold-copper mine in Tsilhqot'in territory. Taseko Mines Ltd expects that the Federal Government's environmental assessment of the new proposal will begin in early November. The Tsilhqot'in National Government has called on the federal government to reject Taseko Mines' second rebid for the Prosperity Mine project and is concerned that this rebid is a replication of the original submission and that proceeding further will only detract from efforts to pursue more sustainable developments in the region. There remains significant opposition to this project from First Nations along with the general public. At the AFN AGA in July, Chiefs passed a further resolution renewing the 2010 pledge to help defend Tsilhqot'in lands against this project and cautioning the federal government against approving this project.

**Keystone Pipeline:** September 2<sup>nd</sup> was a day of action where a number of American Indian and Canadian Native leaders among others were arrested in front of the White House demonstrating the proposed construction of the 1,900 mile Keystone oil pipeline from Canada to the Gulf Coast. In attendance were Regional Chiefs Stanley and Erasmus among others. The demonstrations are in response to the US Department of State issuing a Final Environmental Impact Statement (FEIS) concluding the pipeline would have "no significant impact" on the environment. First Nations are concerned with the lack of consultation on the pipelines and tar sands expansion and impact on Aboriginal rights and title. President Obama now must now determine whether the controversial project is in the national interest of the US.

**Heritage Conservation:** On February 22 and 23, 2011, the First Nations' Leadership Council and Nesika Cultural and Heritage Society co-hosted a two-day, facilitated First Nations' Heritage Forum. The Forum provided a chance for BC First Nations to give feedback on the preliminary draft of the "First Nations Heritage Conservation Action Plan for First Nations." The Joint Working Group on First Nations Heritage Conservation (JWGFNHC) revised and re-circulated the draft Action Plan in March, 2011. Feedback from the revised Action Plan was incorporated into a more streamlined final draft of the First Nations Heritage Action Plan. JWGFNHC circulated this final draft and asked for comments and feedback by August 22, 2011. The JWGFNHC will be bringing this final Action Plan forward for endorsement at upcoming UBCIC, First Nations Summit and BCAFN meetings.

***Safe Drinking Water for First Nations:*** On June 14, 2011, the Minister of Aboriginal Affairs and Northern Development (AANDC) released the results of the National Assessment of Water and Wastewater Systems in First Nation Communities. The National Assessment surveyed the water and wastewater systems of 97 per cent of First Nation communities in Canada. The site visits for this assessment were conducted between September 2009 and November 2010. The assessment was done by an independent contractor, Neegan Burnside Ltd.

Using the AANDC Risk Level Evaluation Guidelines, the contractor assigned a risk rating to each of the water systems that it inspected. Of the 807 water systems inspected across the country, 39 per cent were classified as “high overall risk”; 34 per cent were categorized as “medium overall risk”; and 27 per cent were categorized as “low overall risk”. In British Columbia, the water and wastewater systems of 188 First Nations were inspected for a total of 290 water systems. Of these, 154 were categorized as “high overall risk”; 52 were categorized as “medium overall risk”; and 84 were categorized as “low overall risk”.

Having assessed the risk level of each system, the contractor identified the financial cost to meet AANDC’s departmental protocols for safe water and wastewater. The total estimated cost for BC systems is \$324 million. The projected cost, over ten years, of ensuring that water and wastewater systems for First Nations are able to grow with First Nation communities was also calculated. It was projected that the cost for new servicing in communities would be an additional \$386 million. These numbers are staggering and frightening but unfortunately, for most of us, they are not surprising.

Minister Duncan has informed us that the federal government plans to re-introduce safe drinking water legislation before the end of this calendar year. We are working with the national AFN office and other organizations across the country to ensure that the government enter into meaningful consultation with our individual First Nations before any such legislation is re-introduced and that this legislation must not allow our Aboriginal rights and title, including treaty rights, to be compromised. We have made it clear to AANDC that while standards are important they will not ensure safe drinking water. AANDC needs to make a commitment to provide resources to our communities to bring water and wastewater systems in line with these standards and support our First Nations’ governments in doing so. Please keep an eye on our website ([www.bcafn.ca](http://www.bcafn.ca)) for updated information and how you can participate in this important discussion.

***AFN Chiefs’ Committee on Claims (Specific Claims and Additions to Reserves):*** The Chiefs’ Committee on Claims (CCoC) continues to address the following initiatives:

- 1) Discussions with respect to claims processing and funding;
- 2) Discussions about the provision of mediation services;
- 3) Engagement with the Specific Claims Tribunal of Canada;
- 4) Confirming a framework for the 5-year review; and
- 5) Scoping relating to claims excluded by the monetary cap or other provisions of the legislation.

**Specific Claims:** The Specific Claims Tribunal (SCT) is now accepting claims and at the time of writing had received three claims. At the recent AFN AGA in Moncton, Chiefs passed a resolution on “Specific Claims Tribunal Act Timelines” which called on the Assembly to:

- Urge Canada to not arbitrarily cut-off negotiations.
- Affirm that a decision to terminate negotiations ought to be based on the principles of good faith, respect and mutuality.
- Call on Canada to stop the de facto rejection of specific claims through letters of partial acceptance and the requirement for sign-off on more issues than those identified by the partial acceptance.

Subsequent to our AGA, on July 25 a media report stated that the federal government is planning to halt claim negotiations by presenting “final offers” to First Nations, who would then have access to the Specific Claims Tribunal if the offer was deemed unacceptable. The AFN sought and received clarification from Minister Duncan that this was inaccurate and that negotiations would extend beyond the 3-year timeframes.

The 3-year timeframe contained in the *Specific Claims Tribunal Act* (SCTA) was never intended to be used against First Nation claimants pursuing negotiations of their specific claim. This is clearly spelled out in the Act that only a First Nation – and not the Crown – is able to file a specific claim with the Tribunal. I think it is fair to say that we all want to see the legitimate claims of First Nations resolved in a timely and efficient manner but negotiations must proceed in good faith and be respectful of legal obligations.

The AFN and the Chiefs’ Committee on Claims will continue to work on improving negotiation processes and implementation as envisioned in *Justice At Last* and in the Joint Action Plan between the AFN and Canada.

**Specific Claims over \$150M:** The AFN and the Chiefs’ Committee on Claims continue to support First Nations with claims over \$150 million. These claimants do not have access to the Specific Claims Tribunal and, therefore, can have significant difficulties in advancing their claims in a manner that treats them fairly and impartially. Our Chiefs have called on Canada to work cooperatively, collaboratively and in a true partnership with First Nations that have land rights valued over \$150M to put in place a clear, fair and timely process (with no preconceived criteria) to address these issues. The AFN is working to coordinate these efforts, including advocating that the Federal Parliamentary Standing Committee proceed with the study that had been scheduled prior to the last election and to call on all First Nations with large-valued land rights grievances to testify. The AFN will work to confirm the intentions of First Nations with land rights valued over \$150M to form a voluntary committee to develop strategies with respect to: (a) appearing before the Parliamentary Committee if a study is to be conducted; and, (b) concluding an agreement with Canada as soon as possible.

**Additions to Reserve (ATR):** As mentioned in previous Quarterly Reports, a joint working group (JWG) with Canada was formed in the fall of 2009 to deal with ATR issues. The JWG agreed to first tackle the policy gap regarding ATRs for land purchased with awards from the Specific

Claims Tribunal, work which resulted in a draft interim ATR policy statement that creates a new category within the existing policy to provide priority to additions to reserves flowing from the Tribunal. Through this work, there has been a recognition that more improvements to the ATR policy and practices were required to ensure a more efficient and effective transfer of land for additions to reserves. The JWG has developed a detailed joint work plan on ATR policy reform which identifies policy, legislative, and operational issues. The AFN has hosted five regional meetings since January 2011 to provide information about this initiative and to gain perspective on these issues from regional technicians. A BC dialogue forum will be held in Kelowna, BC on November 15-17, 2011.

**AFN – Ad Hoc Working Group on Comprehensive Claims:** This working group has continued to meet over this past year and has been trying to secure sufficient resources from the federal government to conduct its work and to advance the need for the establishment of a joint process to review the existing comprehensive claims policy with a view to ensuring that Aboriginal title and rights are dealt with in an equitable and expeditious manner. BC leaders continue to play a significant role on this ad hoc working group given the diversity of our Nations, their experiences and engagement with the federal government. In BC, of course we have the diversity of historical, modern and non-treaty First Nations, and it is important for us all to understand how our title and rights are connected and how individual agreements are being implemented throughout the Province and across the country.

At the AGA in Moncton, many of our Chiefs across the country, along with the National Chief and Regional Chiefs, signed the following consensus statement regarding the federal comprehensive claims policy:

#### **CONSENSUS STATEMENT - COMPREHENSIVE CLAIMS POLICY - JULY 2011**

**THE UNDERSIGNED HEREBY JOIN TOGETHER** to re-affirm the continued existence of Aboriginal Title and Rights throughout the traditional lands and territories of all First Nations in Canada.

Canada's Comprehensive Claims Policy is predicated on the denial of the existence of our inherent Aboriginal Title and Rights. We categorically reject this policy.

**WE CALL UPON CANADA** to fully uphold the honour of the Crown and develop new policies in consultation and cooperation with First Nations. Specifically, Canada must adopt new First Nation-Crown negotiation and litigation policies based on Crown recognition, affirmation of the existence, and full implementation of Aboriginal Title and Rights, including Treaty rights, consistent with the United Nations Declaration on the Rights of Indigenous Peoples, endorsed by Canada on November 12, 2010, and the American Declaration of the Rights and Duties of Man.

The ad hoc working group will be meeting on September 30<sup>th</sup> in Ottawa followed by a meeting on October 17<sup>th</sup> in Vancouver to share information and regional experiences, continue

discussions around policy change and the Consensus Statement as well as the 2011 Canada-First Nations Joint Action Plan which also commits to “engage in meaningful dialogue on ways to improve the negotiation and implementation of comprehensive claims.”

The ad hoc working group continues to evolve as more First Nation representatives wish to participate. We continue to look at ways to strengthen the composition and function of the working group to be well structured and appropriately representative of all regions, particularly if there is to be engagement with Canada. The federal government’s political acknowledgement of the need for improvement with respect to its comprehensive claims policy is a starting point for dialogue with Canada, but the nature and terms of engagement still need to be defined.

**The Cohen Commission:** After a summer recess, the “Cohen Commission of Inquiry into the Decline of Sockeye Salmon in the Fraser River” resumed its hearings on August 17, 2011. The Commission was established on November 5, 2009. Based on its findings, Commissioner Bruce Cohen will provide recommendations for improving the future sustainability of the sockeye salmon fishery in the Fraser River in a final report to be completed before June 30, 2012. The Commission is looking into the effects on habitat in the marine environment, Aboriginal fishing, diseases and parasites, and aquaculture. For a full schedule please see <http://www.cohencommission.ca/>. Hearings are open to the public and are held at the Federal Court at 701 West Georgia Street. The results of the inquiry will be of great importance to our Nations. On August 30<sup>th</sup>, the Wild Salmon Warrior Rally took place at the Vancouver Art Gallery. Speakers included: Grand Chief Stewart Philip, Chief Bob Chamberlin, Chief Marilyn Baptiste, Ernie Crey and Dr. Alexandra Morton (Raincoast Research Society/Salmon Are Sacred). The rally brought together advocates for the protection of salmon to raise awareness about the significant impacts any threat to salmon would have on First Nations as it is a primary source of our culture and sustenance.

### 3. Improved Education

Strong & Appropriate  
Governance  


Fair Lands &  
Resources  


Improved  
Education  


Individual  
Health  


***“To make the most of opportunities resulting from fair land and resource settlements and true self-determination we need well educated and well trained citizens.”*** Building on OUR Success

**National Panel on First Nations’ K-12 Education:** The National Panel on First Nations’ K-12 Education is a collaborative effort by the AFN and AANDC. This independent panel is currently travelling across the country to First Nation communities holding engagement sessions and touring facilities. The purpose of this National Panel is to develop options, including legislation, to improve elementary and secondary education for First Nation children on reserve.

The Panel will lead one national and eight regional roundtable discussions. On September 26-29, 2011, the National Panel will again be visiting British Columbia. The First Nations Education Steering Committee (FNESC) and the First Nations Schools Association (FNSA) are participating in this process and are preparing submissions to make to the panel. I have been asked to meet with the Panel and will do so in collaboration with the FNESC, the FNSA and our First Nations' leadership. While the regional roundtables are limited in numbers due to logistics, everyone is invited to participate in their online engagement. Through their website (<http://firstnationeducation.ca/home/participate>) all First Nation citizens can participate and make submissions. Written submissions will be accepted until November 10, 2011.

**First Nations Education System:** The BCAFN Chiefs in Assembly continue to support FNESC and those interested First Nations with the implementation of First Nations K-12 Education System through Resolution 06(i)/2011. The BCAFN continues to advocate that the Government of Canada uphold the honour of the Crown and immediately re-engage in negotiations with our First Nations and FNESC in the advancement and implementation of this education jurisdiction initiative. Re-engagement must occur with the recognition that funding is required for First Nations' schools in BC that reflects the principles of sustainability, equitability, and the need for language, culture and technology programming.

#### 4. Individual Health

Strong & Appropriate  
Governance  


Fair Lands &  
Resources  


Improved  
Education  


Individual  
Health  


***"In order to take advantage of our very real opportunities arising from the settlement of land claims and self-determination we need strong families and healthy citizens."***

**Murdered and Missing Women:** There has been considerable controversy over the last number of months with respect to the Missing Women Commission of Inquiry, which is being headed up by former BC Attorney General, Wally Oppal. The purpose of the Commission is to inquire into and report on the conduct of the missing women investigations. Its terms of reference are to:

- a) conduct hearings, in or near the City of Vancouver, to inquire into and make findings of fact respecting the conduct of the missing women investigations;
- b) consistent with the *British Columbia (Attorney General) v. Davies*, 2009 BCCA 337, to inquire into and make findings of fact respecting the decision of the Criminal Justice Branch on January 27, 1998, to enter a stay of proceedings on charges against Robert William Pickton of attempted murder, assault with a weapon, forcible confinement and aggravated assault;
- c) to recommend changes considered necessary respecting the initiation and conduct of investigations in British Columbia of missing women and suspected multiple homicides;

- d) to recommend changes considered necessary respecting homicide investigations in British Columbia by more than one investigating organization, including the co-ordination of those investigations; and
- e) to submit a final report to the Attorney General or before December 31, 2011

It is very unfortunate how events have been unfolding around this important Inquiry and in particular with respect to the BC government not providing funding to some persons and groups with standing to participate in the hearings. Because of a lack of financial support not all will be able to participate. In other recent significant public inquiries it has been usual for government to provide support to help ensure all voices are represented and that justice is served. Notwithstanding this and other issues the Commission of Inquiry will start its formal hearings in Vancouver on October 11<sup>th</sup>, 2011. Prior to the formal hearings beginning on September 13, 2011, the Commission is also holding a number of forums on missing women along the Highway 16 corridor.

The 4th Annual Walk 4 Justice which started June 21, 2011 in Vancouver was concluded this past Monday, September 19, 2011 on Parliament Hill. During this year's walk there were an additional 36 names added to the list of identified Missing and Murdered women across Canada. This list now totals over 4,000. On Monday, organizers and hundreds of supporters gathered on Parliament Hill to raise awareness and demand justice, closure, equality and accountability for these individuals and their families across Canada.

***National Aboriginal Women's Forum:*** A "*Collaboration to End Violence: National Aboriginal Women's Forum*" was held in Vancouver on June 15-17, 2011. The Forum started with a Witnessing Ceremony held at Crab Park at Portside and was led by the Musqueam Nation to both remember the missing and murdered Aboriginal women and girls and to celebrate the courageousness of Aboriginal women. The plenary session considered 1) Post-Incident Support, 2) Intervention, 3) Prevention, which were summarized in discussions on lessons learned and key actions moving forward. Leaders from national Aboriginal organizations, provinces and territories from across Canada announced their support for seeking justice and improving the safety and security of our citizens. The Forum was co-hosted by B.C.'s Minister of Aboriginal Relations and Reconciliation Mary Polak and the Native Women's Association of Canada President Jeannette Corbiere Lavell. Following the Forum, the BC government announced the creation of a [Minister's Advisory Council on Aboriginal Women](#) which will be chaired by [Wendy Grant-John](#) and will provide advice to the Minister of Aboriginal Relations and Reconciliation about how government and other organizations can support Aboriginal women across BC.

***IndigenACTION 5K Friendship Run/Walk:*** Sponsored by The Running Room, Tim Hortons and Nike, the AFN and the National Youth Council hosted a 5K Friendship Run/Walk on Sunday, July 10, 2011, just prior to the AFN AGA in Moncton. A partnership was launched with Nike to continue efforts to improve health, sport and fitness in First Nation communities. In total, about 100 people participated in the event, including elders, the National Chief, a number of Chiefs

from across Canada, other Regional Chiefs, and IndigenACTION Ambassador and former Olympian Waneek Horn-Miller.

## **PART TWO: OTHER RELATED ACTIVITIES**

**All-Chiefs' Task Force:** The All-Chiefs' Task Force recommendations that were presented at the All Chiefs' Assembly on November 30th to December 1st, 2010 have been formally endorsed by BCAFN Chiefs in Assembly through Resolution 06(f)/2011. The BCAFN continues to work in conjunction with the UBCIC and First Nations Summit through the Leadership Council on developing both a joint strategic plan and administrative plan that will assist in the implementation of the draft Terms of Reference and Accountability Framework passed by the Chiefs (Resolution 06(d)/2011). The First Nations Leadership Council continues discussions on formalizing relationships with BC Chiefs through the "All-Chiefs'" Assembly process, with First Nations' Councils to ensure that the FNLC has access to expert technical advice on key issues, and with other important partners that can assist with appropriate decision-making tools and the successful implementation of policy. I look forward to providing updated information as we continue to implement the recommendations made by the All Chiefs' Task Force.

I would again like to express my support for the recommendations of the Chiefs at the All Chiefs' Assembly which speak to working together and to collaboration between our PTOs on issues of common concern and ensuring accountability. I believe the recommendation of having at least one assembly a year bringing together all the Chiefs in BC on issues of common concern is very important.

**The First Nations-China: Transforming Relationships strategy:** The BC First Nations Energy and Mining Council (FNEMC) has developed a BC First Nations-China Strategy to promote a proactive approach to engagement with China. The goal of this strategy is to promote collaborative development between First Nations and Chinese businesses and state-owned enterprises involved in natural resource development in British Columbia. BC First Nations and the FNLC are working with the AFN and the Embassy of the People's Republic of China to coordinate a First Nation Trade Mission to China on October 21-31, 2011. Scheduled to coincide with a mission to raise the totem pole gifted to the peoples of Beichuan after suffering a devastating earthquake, the trade mission's objectives of information, education, cultural exchanges and economic development, have been supported and encouraged by the Chinese Ambassador to Canada. The People's Republic of China, through the Chinese People's Association for Friendship with Foreign Countries, will host the mission and facilitate meetings with the Chinese government and businesses. Meetings will take place in Beijing, Dalian, Chengdu, Beichuan and Shanghai.

### PART THREE: BC ASSEMBLY OF FIRST NATIONS' OPERATIONS

**BCAFN 8<sup>th</sup> Annual General Meeting / Elections / Appointment:** I would like to thank all that participated in the BC Assembly of First Nations, 8<sup>th</sup> Annual General Meeting, held on June 25, 2011, at the Westin Wall Centre, Richmond. We had an excellent turn out and were able to provide confirmation of quorum represented by the ninety-nine (99) Chiefs or Chiefs' Proxies registered at the Meeting. In total, 20 resolutions were passed dealing with important issues from governance, shared territory, fiscal relations, mining reforms, education, and water among others. All resolutions were passed by consensus and are available on the BCAFN website, [www.bcafn.ca](http://www.bcafn.ca).

Elections were also held at the AGM for one BCAFN director position, BCAFN Women's Council representative and BCAFN Female Youth Council representative. The election results were as follows:

- Chief Cheryl Casimer, St. Mary's Band, was elected to the BCAFN Board Directors by acclamation;
- Chief Lydia Hwitsum, Cowichan Tribes, was elected BCAFN Women's Council representative; and,
- Erralyn Thomas, Snuneymuxw First Nation, was elected BCAFN Female Youth Council representative.

Congratulations to each of our newly elected representatives, and I look forward to working with each you.

I am also pleased to announce the interim appointment of Chief Les Sam, Tseshaht Nation, who has accepted an interim appointment to the BCAFN Board of Directors. Chief Sam will serve as a Director until the next BCAFN Annual General Meeting.

Finally, I would like to thank both Chief Coreen Child, Kwakiutl First Nation, who agreed to serve as our interim BCAFN Women's Council Representative, and our out-going female Youth Council representative, Toni Williams, Cowichan Tribes, for your commitment and leadership. We will miss you but know that our work together will continue in some capacity as we move forward.

**Information Sharing/Webpage:** The BCAFN website hosts the "Governance Toolkit" where the Governance Report along with reference documents and other resources are accessible online ([www.bcafn.ca](http://www.bcafn.ca)). We will continue to work with First Nations that wish to contribute to and update their individual profile page to share information and highlight their successes with others. If you would like to provide any feedback, contribute to the site, or update your First Nation's profile, please contact [angie.derrickson@bcfn.ca](mailto:angie.derrickson@bcfn.ca).

**BCAFN Board of Directors:**

Chief Nelson Leon, Adams Lake Indian Band  
Chief Lydia Hwitsum, Cowichan Tribes  
Chief Maureen Chapman, Skawahlook First Nation  
Chief Cheryl Casimer, St Mary's Band  
Chief Les Sam, Tseshah First Nation

**BCAFN Staff:**

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I would like to thank Whitney Morrison, our fabulous Summer Intern, who came to the BCAFN as part of the Aboriginal Youth Internship Program. We will miss you Whitney and look forward to working with you in the future.

## **NOTICES**

September 21, 2011 (4:30 – 8:30pm)

### **AFN Chiefs' Committee on Claims**

Westin Bayshore Hotel

Vancouver, BC

September 30, 2011 (9:00am-4:30pm)

### **AFN Ad Hoc Working Group on Comprehensive Claims**

AFN Offices: Ottawa, Ontario

October 17, 2011

### **AFN Ad Hoc Working Group on Comprehensive Claims**

Vancouver, BC (location TBD)

November 7, 8 & 9, 2011

### **AFN National Health Forum**

#### **“Taking Action to Move Forward”**

Ottawa Convention Centre

Ottawa, Ontario

November 15 & 16, 2011

### **AFN National Citizenship Forum**

Enoch River Cree Resort

Edmonton, Alberta

November 15, 16, & 17, 2011

### **National Aboriginal Land Managers Association / Assembly of First Nations**

#### **~ Additions to Reserve Workshop ~**

Kelowna, BC (location TBD)

December 6, 7, & 8, 2011

### **Assembly of First Nations – Special Chiefs' Assembly**

Ottawa, Ontario

Up to date information can be accessed on our website: [www.bcafn.ca](http://www.bcafn.ca).