

BRITISH COLUMBIA ASSEMBLY OF FIRST NATIONS



REGIONAL CHIEF'S QUARTERLY REPORT

September 2010

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

NOTE TO READER

This report, as with my previous quarterly reports, will focus on actions and activities that we are undertaking at the British Columbia Assembly of First Nations (BCAFN) to facilitate implementation of the key and interrelated areas set out in the “*Building on OUR Success*” platform. These are:

- (1) strong and appropriate governance,
- (2) fair lands and resource settlements,
- (3) improved education, and
- (4) individual health.

The vision is that our Action Plan at the BCAFN must empower, connect and support our Nations as each Nation implements its Aboriginal title and rights, including treaty rights, with the ultimate objective to make the lives of our people better. 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 partnership 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.”

BCAFN Governance Tool: The BCAFN is continuing to develop a “First Nations’ Governance Community Engagement and Self-Assessment Tool” (the ‘Tool’). The Tool, once piloted and tested, will be provided to all First Nations in BC. It will include a number of modules each designed to assist communities to develop a critical path to achieve their governance objectives including:

- assessing the current effectiveness of the governing body and progress in building/re-building institutions of governance;
- identifying and assessing any gaps in their administrative/organizational structures;
- considering the range of powers/jurisdiction of the First Nations’ government; and,
- managing change and engaging the community.

The tool will also include a report or resource guide that considers:

- programs, options and initiatives currently available to assist First Nations to advance governance beyond the *Indian Act*, including any requirements for participation in those initiatives;
- funding currently available to First Nations for capacity development and negotiation support; and,

- the range of jurisdictions and authorities available to First Nations through existing programs, policies and initiatives.

We were targeting to have a working draft of the Tool completed by the end of October 2010 and are looking for communities to pilot it. We had hoped to be able to host a special assembly of the BCAFN in early October 2010 to introduce the Tool and get feedback but due to funding constraints we have pushed this back to early 2011 in accordance with a resolution passed at the BCAFN AGA in June that supported the four pillars of the *Building on OUR Success* plan and the development and launch of the Tool. We are still targeting to get the Tool out to all communities by the winter of 2011 after the pilot work and peer reviews have been completed. The BCAFN will continue to discuss this Tool with other organizations that have completed similar tools and/or are interested in being partners. Most importantly, we will be engaging in a new series of regional dialogue sessions to continue to keep every First Nation in BC aware of the status of our Tool and seek the essential feedback required from our Chiefs and community members in order to complete it.

AFN – AGA & Portfolio Area: First Nation Governments George Stanley, the Regional Chief from Alberta and myself continue to be assigned the national First Nations' Governance portfolio. This portfolio is particularly important to BC given our governance and other initiatives that are on-going and are our unique experiences in addressing the 'land question'. This portfolio includes: citizenship and Nation building; justice and dispute resolution; comprehensive claims review/negotiations; specific claims/ATR; and, urban strategy.

On July 20-22, 2010 the Assembly of First Nations held its 31st Annual General Assembly in Winnipeg and I presented on governance issues as the co-portfolio holder. More than 2,000 people attended the AGA, with many hundreds more watching via webcast. This was a very high turnout for a non-election AGA. The BC Region had 86 registered Chiefs or Proxies. Regional Caucus Sessions were held in the morning from 8:00 – 10:00a.m. on two days which provided for important dialogue amongst the Chiefs and delegates on various matters and allowed for discussion on proposed Resolutions. Thank you to all of those that participated in the caucus sessions.

One of the highlights of the AGA for me was our National Chief speaking to the long-standing goal of First Nations to re-build our governments, to exercise our jurisdiction and to displace the harmful aspects of colonization including the *Indian Act*. He indicated we want to do this in five years. First Nations, of course, have been calling for this for decades and this is not a new idea. Today, though it is all about supporting First Nations' governments to do what they need to do to effectively serve and support the interests of their citizens. The National Chief spoke to the inequities, the poverty and frustrations facing all of our communities underlining the importance of acting. It is time, he said, to focus our energies and cut to the heart of the problem once and for all. We discussed the reality that we need to move now because the federal government is already trying to take apart the *Indian Act* for us. History tells us that this approach will not work. The federal government is in reality chipping away at the *Indian Act* piece by piece, bill by bill. The National Chief mentioned that we can either consume our energies fighting legislative battles that only serve to maintain the status quo, or we can boldly

move forward, conduct our own analysis and work with our people to set the path forward, re-building our governments and pushing aside the *Indian Act*.

Clearly we need a constructive alternative to the current federal approach to piecemeal government led legislative initiatives in areas such as water regulation, matrimonial real property, Indian registration, etc. and to re-establish appropriate institutions of governance and exercise our jurisdiction.

Current Sectoral Governance Initiatives While each of our Nations works to develop their own governance structures and resume jurisdiction over their lands and people as part of Nation building or Nation re-building, there are a number of other governance related initiatives ongoing across BC and Canada. Some of these initiatives are First Nation led and in some cases are regional or national in scope establishing governance beyond the *Indian Act* province-wide or Canada-wide. In other cases these initiatives are led by the government of Canada, either as part of INAC's policy agenda or a result of legal decisions. In all cases it is important that First Nations are aware of these initiatives and their implications and the options available to Nations in relation to their own Nation-building or re-building objectives.

First Nations Initiated Initiatives:

Governance over lands, Bill C-24: First Nations Certainty of Land Title Act and other land related initiatives: Bill C-24 amends the *First Nations Commercial and Industrial Development Act* (FNCIDA) and was led by five First Nations: the Squamish Nation in British Columbia; the Carry the Kettle First Nation in Saskatchewan; the Fort McKay First Nation and Tsuu T'ina Nation in Alberta; and, the Fort William First Nation in Ontario. The Bill received Royal Assent on June 29, 2010. Bill C-24 is intended to establish a First Nations' land title system that can support private investment by enabling legal interests in lands to be more easily defined, enforced and traded. At the request of a First Nation, on-reserve commercial real estate developments could be registered in a system that replicates the provincial land title systems, thereby helping to make the value of on-reserve land and properties comparable to that of equivalent properties off reserves. The application of this legislation is optional and is triggered only at the request of an individual First Nation that has the opportunity for economic development. It is also dependent on a First Nation having both a commercial or industrial development partner and a willing province to register its interests in lands.

The Bill C-24 initiative should not be confused with other land governance related initiatives. Such as the Framework Agreement on First Nation Land Management and the *First Nations Land Management Act* that was passed in 1999 and under which 29 operational First Nations across Canada are now managing their lands outside of the *Indian Act* pursuant to land codes passed by their citizens. Bill C-24 should also not be confused with another proposed initiative to establish an optional system establishing 'fee simple' land interests on reserves with a new national land registry to be created through an overarching national land management structure. Talk of this fee simple initiative has proven quite controversial in Canada and has sparked a renewed debate on the relative merits of 'privatizing' reserve lands. It is expected

this debate will intensify if Canada chooses to support such an initiative. What is important is that First Nations have options and developing options for the types of land management they want on their lands and the types of interests created on those lands. There are, in fact, many options and ways for First Nations to hold land. Land management is an important subject matter for consideration when any community is building or re-building its governance beyond the *Indian Act*. The BCAFN Governance Tool will, accordingly, include an exercise to assist a First Nation in making decisions about appropriate land tenure systems given their circumstances and differing perspectives.

Governance over the administration of health care in BC: Over the past three months First Nations in BC have initiated the transformation of the First Nations' Health Council. This is important work that has far reaching implications for our Nations during this period of Nation building. The former 7-member Health Council was dissolved, effective May 30th 2010, and has been replaced by a 15-member First Nations' Health Council. The 15-member FNHC have a two year mandate to coordinate with and receive direction from regional caucuses, oversee negotiations with government on the creation of the First Nations' Health Authority and oversee work on health related action items. The regional caucuses select their representatives through their own regionally determined processes. The inaugural meeting of the FNHC was held on June 23, 2010.

On July 26th, 2010 the Tripartite Partners representing the Government of Canada, the BC First Nations' Health Council, and the Government of BC initialled the "British Columbia Tripartite First Nations' Health Plan: Basis for a Framework Agreement on Health Governance" (the 'Basis Agreement') that sets the stage and a process for negotiations to transform how BC First Nations' health is managed in British Columbia. The Basis Agreement is a non-binding political agreement that sets out broad outlines for negotiations to develop a legally binding agreement on First Nations' health governance. The intention is to create a province-wide BC First Nations' Health Authority that will initially administer federal health services to First Nations in British Columbia and which could lead to the development of a mandate to engage and negotiate with the Government of British Columbia and the Provincial and Regional Health Authorities on, ultimately, the transfer of jurisdiction to the provincial body.

As stated in previous reports, how health care is provided in our communities is something that each Nation needs to consider in the context of self-government. Ultimately decisions regarding healthcare will need to be made by each of our Nations and any shift in jurisdiction from Canada or BC would normally require the consent of a Nation. The implications of different models for health care delivery and jurisdiction need to be well understood prior to First Nations assuming responsibility for health care from Canada and, where applicable, BC. Health care, is, after all, the most expensive service governments provide with increasingly fewer resources to meet the growing needs.

Government of Canada Initiated Initiatives

Bill C-3: Gender Equity in Indian Registration Act: The AFN continues to monitor the progress of Bill C-3, the federal response to the *Mclvor* decision where the BC Court of Appeal decided certain sections of the *Indian Act* regarding registration as an Indian were discriminatory and therefore struck them down. Significant changes to Bill C-3 were proposed by the opposition parties in Committee stage but these were ultimately ruled out of order by the Speaker of the House on the grounds they went beyond the scope of the Bill. The Liberals and the Bloc have indicated that they will vote against the Bill if changes are not made. Following amendments in Committee review, this Bill remains at the report stage and has not yet returned for Third reading. Canada was initially given a year by the Court to correct the discrimination but this has been extended until January 31, 2011. If Bill C-3 is not passed by January 31, 2011 anyone who is currently registered will not lose their status. It would mean, however, anyone who would have been entitled to be registered but are not would no longer be able to register under 6(1)(a) and 6(1)(c) as these sections will be gone. For those who are not entitled to status today and would have gained the right to apply for status through Bill C-3 they will also have to wait. The status issue should, of course, not be confused with the broader question of our Nations' rights to determine their own 'Citizenship'. The AFN has a long-standing mandate from the Chiefs in Assembly to pursue recognition of First Nations' jurisdiction for law-making over citizenship.

Bill S-4 – An Act respecting family homes situated on First Nations reserves and matrimonial interest or rights in or to structure and lands situated on those reserves: Canada continues to pursue legislation to regulate the division of property on marriage breakdown on-reserve through Bill S-4. From the perspective of the AFN, Bill S-4 does not adequately recognize First Nations' law-making authority in this area nor does it facilitate appropriate justice or capacity for enforcement. Consistent with the mandate set out in AFN Resolution No. 26/2008 and BCAFN Resolution 23/2010, we have called upon the federal government to broadly recognize and implement First Nations' jurisdiction over matrimonial real property on First Nations' lands and to do so in the context of the wider governance issues associated with matrimonial property (e.g., lands, wills and estates, family relations, divorce, etc.) and establish an alternative process and approach to addressing these complex issues. This is an example of the 'tinkering' to the *Indian Act* that is occurring in the absence of an agreed to more comprehensive way to address and implement First Nations' governance. In this regard the AFN has expressed concern over the provisional rules that would apply to the division of property until, and if, a First Nation enacts a law over matrimonial property pursuant to the delegated law making powers set out in the Bill S-4. Bill S-4 has gone through Third Reading and was passed by the Senate on July 6, 2010. While there were some amendments made by the Senate, these amendments do not reflect First Nations' expectations for jurisdiction over law-making in this area. Bill S-4 was introduced at First Reading in the House of Commons on September 22, 2010 and certainly interventions will continue as this Bill goes through a similar process of debate and committee hearings. The AFN is advocating to have this Bill be referred to committee for examination prior to Second Reading.

Bill S-11: Safe Drinking Water for First Nations Act: On May 26, 2010 Bill S-11 was introduced to regulate drinking water and wastewater on reserve lands. The Bill underwent First Reading on May 26, 2010. Debate on whether Bill S-11 should be read a second time occurred on June 1, June 8, and was adjourned on June 15. The AFN is currently conducting an impact analysis of the proposed Bill. Like matrimonial property issues there is no question issues of water quality need to be addressed. However, the Bill as drafted does not currently, in many opinions, stand to effectively address the crisis in our communities and could, in fact, stand to infringe on First Nations' water rights. How we as First Nations' govern the distribution of water on our lands, as with the division of matrimonial property, needs to be addressed in the context of a more comprehensive self-government debate and Nation building process to take us beyond the *Indian Act*. Accordingly, if passed Bill S-11, as with Bill S-4, must only be seen as interim steps until First Nations' self-government has been re-established in practice. This federal initiative is yet another example of why it is so important that we as First Nations undertake the necessary governance preparation work in our communities now to be able to assume our responsibilities and benefit from our rights; in this case over water.

Canadian Human Rights Act: As a result of the 2008 *An Act to amend the Canadian Human Rights Act*, after June 19th 2011 First Nation's governments operating under the *Indian Act* will be subject to discrimination complaints filed under the *Canadian Human Rights Act* (CHRA). The AFN, as directed by Chiefs-in-Assembly, has conducted ten regional dialogue sessions to obtain input from First Nations on the potential impact of the repeal of Section 67 of the CHRA and has now finalized a report entitled, "Assessing the Readiness of First Nations Communities for the Repeal of Section 67 of the *Canadian Human Rights Act*". The report addresses the extent of the preparation, capacity and fiscal and human resources that will be required in order for First Nations' communities and organizations to comply with the CHRA.

2. Fair Lands and Resources Settlements

"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."

BC First Nations' Task Force: The BC First Nations' Task Force was established from among our Nations to consider strategically how we should best organize politically on a province-wide basis to advance and implement our Aboriginal title and rights, including treaty rights, and to look contemplatively at our three existing Provincial and Territorial Organizations (the Union of British Columbia Indian Chiefs, the First Nations Summit and the BCAFN) along with the various councils and bodies we have established. The Task Force reported and sought direction at a BC All Chiefs' Meeting May 18-20, 2010. It was agreed that terms of reference for the First Nations' Leadership Council be developed by this fall. An All-Chiefs' Assembly has been set for December 1, 2 and 3, 2010 to provide a final report on the work of the Task Force and to

consider its recommendations. These discussions are all the more important given the recent advances our Nations are making in negotiating their own reconciliation arrangements with the provincial government and other strategic engagements addressing revenue sharing and a range of issues that all First Nations have been advocating for, for quite some time. How we all work together effectively and efficiently to ensure opportunities for all our Nations is critical as we continue to build on our success.

AFN Exercising and Implementing Our Rights - “First Nations ~ Crown Relations”:

Comprehensive Claims and Aboriginal Title and Rights Working Group: In addition to my First Nations Governance portfolio I also participate on the Comprehensive Claims and Aboriginal Title and Rights working group (part of the portfolio of Aboriginal Title and Rights and Treaty implementation). This is recognition of the diversity that exists in BC as a microcosm of Canada. In BC we have both historical treaties and modern treaties with most of the Province not under any treaty. It is important to understand how treaties are being implemented across BC and the rest of the country (both modern and historic) and how the treaty and non-treaty issues are connected. After all every First Nation is dealing with the same federal government whether we are under treaty or not, and with the exception of the modern treaties, most First Nations are still governed under the *Indian Act*. At the AFN 2010 AGA a resolution was passed to support the continued work of this Working Group in developing a work plan around Comprehensive Claims Policy Reform.

AFN Chiefs’ Committee on Claims (*Specific Claims and Additions to Reserve (ATR)*) As stated in my last report, the *Specific Claims Tribunal Act* became law on June 18, 2008, and came into force on October 16, 2008. The Tribunal was formally established by legislation on October 16, 2008, but no judges were appointed until November 27, 2009, when three full-time appointments were announced: Mr. Justice Harry Slade (BC), Mr. Justice Patrick Smith, (ON) Madam Justice Joanne Mainville (QC). Mr. Justice Harry Slade was appointed Chair of the Tribunal in December 2009. While the Specific Claims Tribunal is now established, it is not expected to begin to hear cases until 2011. The current focus of the Tribunal is on developing “Rules of Procedure”. Comments on the proposed rules were submitted by the AFN along with 10 other submissions from various First Nations and Organizations. The Tribunal responded to the 11 submissions on August 13, 2010 by way of letter in which indicated the main areas of concern expressed in the submissions (this letter is posted on their website). Further engagement with the Tribunal around the draft rules will occur at the beginning of October.

Specific Claims over \$150 million remain excluded from the jurisdiction of the Tribunal and the national AFN continue to work to support and coordinate First Nations with claims over \$150 million consistent with the commitment made at the Policy & Planning Forum held in March 2009. The BCAFN representative on the AFN Specific Claims Committee is Chief Fabian Alexis, Okanagan Indian Band

ATR Policy Renovation The AFN has been working with INAC to review and evaluate existing ATR policy issues based on the commitment made in the November 2007 Political Agreement. As part of this work, opportunities to renovate the existing Chapter 10 Lands Manual policy

have emerged. This work would focus on the development of a proposal to clarify and align the current policy as a stand alone document in a manner that will improve the existing process and eliminate inconsistencies that have created barriers to ATR resolution. Further, existing legislation in the Prairie Provinces provides a model for the development of a proposal relating to the development of national ATR legislation. The advancement of a national legislative approach would eliminate many of the existing barriers to ATR resolution and would help to significantly expedite the ATR process. A provisional draft of national ATR legislation would be jointly developed as part of this proposal.

Gaming With revenue sharing now for forestry and mining how long can it be until there is revenue sharing for gaming – an obvious area where the Province can support our communities with much needed resources to build our governments, provide programs and services and ultimately improve the lives of our people. The work of the BC First Nations Gaming Revenue Sharing Initiative’s Steering Committee, continues its work under its Chair Chief Joe Hall. To date there has not been a meeting with the Premier on this issue but this issue has been gaining traction.

By way of background, of the eight provinces in Canada that have legalized gambling, all governments except BC share gaming revenues with First Nations, transferring over \$1 billion annually into First Nations’ communities. Some provinces have agreements that blend revenue sharing monies with First Nations’ casino revenues to funnel much of the profits to other First Nations in those provinces to help alleviate poverty, build stronger communities and stimulate local economies. Thousands of jobs have been created for First Nations. In most cases, provinces also offer specific First Nations’ Economic Development funds to encourage partnerships and economic growth. BC does not.

As Regional Chief, in accordance with resolutions passed by the Chiefs-in-Assembly, I will continue to support the Steering Committee’s work and call upon the Premier of British Columbia to meet with our Chiefs to discuss once and for all the possibility of reaching a working agreement on gaming revenue sharing. A support resolution was passed at the BCAFN 2010 AGA (Resolution 08/2010).

Economic and Community Development Agreements Two recent and important revenue sharing agreements have been entered into in BC between the Government of British Columbia and the Stk’emlupsemc of the Secwepemc Nation as represented by the Tk’emlups Indian Band and the Skeetchestn Indian Band (SSN) and the McLeod Lake Indian Band. These agreements are the first true revenue sharing agreements following the year of litigation and lobbying by First Nations and the three communities are to be congratulated for their achievement. The SSN Agreement is based on the New Afton Mine Project proposed by New Gold Inc. and is situated at the historic Afton Mine approximately 10 kilometers west of Kamloops. The McLeod Lake agreement is based on the Mt. Milligan Mine Project proposed by the Terrane Metals Corporations approximately 67 kilometres northwest of the community of McLeod Lake. In the SSN agreement if the taxes paid by the proponent to the Province exceed any amount refunded, BC will pay SSN 37.5% of the difference between these two amounts. The Province

has also agreed to an engagement process between SSN and BC regarding any government actions which may relate to new or existing provincial dispositions, licenses, permits or authorizations that may impact SSN's Aboriginal Rights and a Consultation and Accommodation process is set out. In the Economic and Community Development Agreement with the McLeod Lake Indian Band the Parties recognize and respect that McLeod Lake has a history of use of the proposed mine site area and its ancestors had the dominant Aboriginal presence in the area of the proposed mine site. If the taxes paid by the proponent to the province exceed any amount refunded, BC will pay McLeod Lake 15% of the difference between these two amounts. Where First Nations are satisfied that projects will not negatively impact rights and title and the environment, and where accommodation can be negotiated, then revenue sharing agreements such as these two agreements will, increasing, become very important to the governments. However, revenue sharing and these types of arrangements should not just be on new projects but also on old ones or where tenures or licenses are being renewed.

Prosperity Mines – Tsilhqot'in National Government – Teztan Biny (Fish Lake) In addition to a number of hot issues in BC, including the proposed Site C Dam on the Peace River and the proposed Enbridge Northern Gateway pipeline, the issue of Teztan Biny has been in the news as of late. While First Nations are not on principle opposed to all development, indeed many of us want our fair share, where First Nations do not agree development projects should proceed because of infringements of Aboriginal rights and title or where there would be unacceptable destruction of the environment, these interests must be respected by decision makers. Where governments appear willing to proceed with developments that do not meet First Nations' interests, then First Nations need to continue to be vigilant using all legal means available to us to influence government decision making. This is the current situation with Taseko Mines Ltd.'s proposed Prosperity Gold-Copper Mine Project outside of Williams Lake.

As most of you know, the proposed Prosperity Mine project would completely destroy Teztan Biny (Fish Lake), Little Fish Lake and Nebas, areas of deep cultural and spiritual significance for the Tsilhqot'in, in order to build a tailings pond and waste rock storage facility. In addition, the project would involve construction of a transmission line and access road through Northern Secwepemc and Tsilhqot'in territory, and would operate at a significant volume over decades. Taseko has proposed that the Tsilhqot'in people should move their traditional fishery to a human-made "replacement" lake called "Prosperity Lake" to mitigate the cultural and economic loss that the people will suffer as a result of the destruction of Teztan Biny. Teztan Biny supports a population of 90,000 rainbow trout; however, the new human-made lake would support only 20,000. The destruction of Teztan Biny is completely unacceptable to the Tsilhqot'in people. The Northern Secwepemc (Esketemc First Nation and Canoe Creek) also reject Taseko's proposed Prosperity Mine project. Specifically, they are opposed to the proposed industrial power transmission line through the heart of their territories to service the proposed Prosperity Mine. Despite these strong objections and the objections of others, the province has approved the project, which, thankfully was still subject to federal environmental review.

On July 2, 2010, the Canadian Environmental Assessment Agency federal review panel concluded that the proposed Prosperity Mine project would result in 'significant adverse environmental effects' on fish habitat, grizzly bears, navigation, First Nations' traditional land use, First Nations cultural heritage and certain potential or established Aboriginal Rights or Title. The Panel specifically noted that the island in Teztan Biny is a site of particular spiritual importance to the Tsilhqot'in people, and that its permanent destruction for the storage of mine waste would be a high magnitude and irreversible cultural loss to the Tsilhqot'in people. The panel further concluded that some of the environmental impacts of the mine are too large to be overcome by the trade-offs proposed by the mine's proponents, and that the proposed habitat compensation plan was unlikely to succeed. Given these conclusions, we must remain confident that the federal government will realize the significant and irreversible impacts of this project and will refuse to issue approval for future development of this proposed Mine.

To reinforce our collective conviction on this issue, the AFN Chiefs-in-Assembly unanimously supported a Resolution (01-2010) at this year's AGA, which conveyed full support of the Tsilhqot'in Peoples' efforts to protect their lands from the proposed Prosperity Gold-Copper Mine. On September 2nd 2010, I attended a press conference in Ottawa, joining the leadership from the Tsilhqot'in Nation, Grand Chief Ed John of the First Nations Summit, and Union of B.C. Indian Chiefs, President, Grand Chief Stewart Phillip. Our message was clear and we presented a collective front in opposition of the proposed mine in support of the Tsilhqot'in National Government. The AFN, the BCAFN, the FNS, and the UBCIC have also written in support of the Tsilhqot'in National Government's position, rejecting Taseko Mines Ltd.'s proposed Prosperity Gold-Copper Mine Project and the national AFN is conducting a letter campaign through our website.

Aquaculture (FNLC) In *Morton v. British Columbia* the BC Supreme Court ruled that the BC government does not have the Constitutional authority to regulate the aquaculture industry. In particular, the Court held that "fish which are reared in finfish farms on the coast of British Columbia fall under the jurisdiction of Parliament under s. 91(12) of the *Constitution Act 1867*" and that "the impugned provincial legislation... was ultra vires the provincial crown and thus invalid." The BC Court of Appeal initially gave the federal government twelve months to enact legislation for the regulation of finfish farming. In response, Canada is in the process of making BC Aquaculture Regulations that were pre-published in the Canada Gazette on July 10, 2010. Canada and BC are also currently negotiating a Memorandum of Understanding that will set out their respective roles and responsibilities for regulation of the aquaculture industry as the transition from the provincial regulatory regime to a federal regime continues to unfold. First Nations must be meaningfully involved in this process and consulted about any proposed new arrangements between Canada and BC before the Memorandum of Understanding is concluded. We also understand that the Department of Fisheries and Oceans plans to roll over existing aquaculture licenses. These licenses were issued pursuant to a regulatory regime which the courts have determined is unconstitutional. A jurisdictional rollover without consultation and accommodation of the infringements caused by these licences could be unconstitutional. Together with the First Nations Summit and the Union of BC Indian Chiefs Executive, the BCAFN has sent a joint letter to both Canada and BC on this issue. We have

urged the federal government to meaningfully engage with and accommodate First Nations' in BC on development of the Regulations before they are adopted, through bilateral, government-to-government processes. Likewise the AFN, in a release earlier this month, called on the DFO to ensure new, draft aquaculture regulations will meet the needs of all those involved by working collaboratively with First Nations and allowing them the opportunity for real input and involvement in developing the new regulations.

3. Improved Education

“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.”

BCAFN & the First Nations Education Steering Committee BC First Nations have tasked the First Nations Education Steering Committee (FNESC) with addressing a range of education issues. As we move forward with implementation of the education objectives of the *“Building on OUR Success”* Action Plan, we will build upon the work of the FNESC and coordinate our efforts. As part of these efforts at the recent AFN AGA a *“First Nation Control of First Nation Education report”* was released. The report, endorsed by First Nations' leaders and youth across Canada, confirms a new comprehensive plan to directly address critical education needs facing First Nation communities. The report is available on FNESC's webpage and I encourage you to review this new blueprint for change and success. In addition to the ongoing work in BC and at the AFN with regards to education, education remains a central issue being addressed by the AAWG as part of the work through the Council of the Federation (see below). The AAWG has identified the importance of discussing and identifying, where possible, education targets (high school graduation rates, number of university students etc.) for our Citizens. The BCAFN and the FNESC will continue to work closely with the national AFN on this important initiative.

National Week of Action on Education (NWAE) Many events were planned and held across the country to draw local, regional and national attention to inequitable treatment in First Nations' Education. Communities, schools and regions were invited to attend events in Ottawa, and were encouraged to coordinate and promote additional local and regional events to support this important Week of Action. From all accounts, NWAE proved to be very successful. In Ottawa, Chiefs and representatives met with over 50 MPs on advocacy day and had 120 people present at the scheduled breakfast reception, including 6 embassies (see scheduled events below).

Proposed Bill: First Nations Education Funding (New Section of IA #114(3)) As a result of a meeting between the National Chief, representatives of the CCOE and the Bloc Quebecois (BQ), the BQ has developed a private member's Bill requiring new regulations to be enacted under the *Indian Act*, in respect to the provision of adequate funding for First Nations' education. The proposed Regulations would be required to be enacted within one year of the Bill coming into force and following regional and national consultations with First Nations. The Bill requires the new regulations to address the following issues specifically:

1. Provision of sufficient funding for primary and secondary education that takes in account population size;
2. Establishment of a new funding formula and removal of 2% cap on education funding;
3. School infrastructure funding that meets provincial standards for class size and facilities; and,
4. Sufficient funding for post-secondary education.

It is hoped that the Bill will be tabled when the House reconvenes in the fall.

4. 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.”

IndigenACTION Inspired by the spirit and energy of the 2010 Olympic Games and the work being done by and among First Nations' people across Canada, Assembly of First Nations National Chief Shawn A-in-chut Atleo and the AFN Youth Council have launched *IndigenACTION* – an initiative focused on improving and enhancing opportunities for First Nations through sport, fitness and partnerships. The AFN and AFN Youth Council hope to build on the spirit and energy of the 2010 Olympic Games and work together with various partners to ensure Indigenous peoples in Canada have an opportunity to grow themselves and their communities through community fitness, wellness, sports and recreation. *IndigenACTION* will enhance existing relationships and develop new partnerships to help improve the quality of life for Indigenous peoples by promoting healthy lifestyles, community togetherness and community-based economic spin-off opportunities. Part of this legacy must be securing greater investment and support for our own athletes, as sport has great potential to encourage, motivate and create confidence in our young people.

Under the leadership of Olympian Waneek Horn Miller, AFN and AFN Youth Council is facilitating the development of a national strategy to further support and stabilize new and existing initiatives and organizations supporting young Indigenous athletes and improve fitness and wellbeing in our communities. Through regional roundtables (and we are working to secure a roundtable in British Columbia) *IndigenACTION* is gathering voices and coordinating efforts to identify opportunities, common goals and objectives. They want feedback from athletes, sports institutions, organizations, and the private and public sectors to identify opportunities to improve and enhance existing resources for Indigenous youth in sport, while promoting active and healthy lifestyles at the community level.

Sports, as the Olympic Games remind us, have the potential to fuel passion and motivation. But sports are very much more and can be part of the turning point for our people. Just as we look to the Treaties, or to building real partnerships through negotiations, as the relationships our governments strive to achieve, we must also embrace the example our ancestors set in their way of life. Through active individual and collective pursuits, our people were healthy,

balanced and positive. Just as we re-build our governments we must also re-store this path to health and well-being.

Murdered and Missing Women The Supreme Court of Canada recently dismissed Robert Pickton's appeal of his conviction for murdering six women and charges against him have been stayed in 20 other cases. Many of Pickton's victims were First Nations' women. The numbers of missing or murdered First Nations' women throughout this province is significantly disproportionate to numbers of missing and murdered women among other ethnic groups. While we are very pleased that there will be an inquiry into the Pickton case, something that the families and friend of his victims have wanted for some time, we still need to do more to address the broader question of missing and murdered aboriginal women generally.

At a meeting of the BC Assembly of First Nations held on June 25, 2009, the BCAFN Chiefs in Assembly passed resolution 34/2009, which calls for a full public inquiry into the cases of missing First Nations' women in the Downtown Eastside of Vancouver and along Highway 16. This issue is of grave concern to First Nations throughout this province and the families of missing and murdered First Nations' women are desperately seeking answers and closure. First Nations' communities, leaders and families are also concerned about the policies and procedures that guide the response of law enforcement officials to reports of missing First Nations' women.

I, along with others, have written advocacy letters to various parliamentarians on behalf of the 201 First Nations in this province to request that they take immediate steps to establish a commission of inquiry to examine the police response to cases of missing First Nations' women along Highway 16 and in the Downtown Eastside. We are requesting a meeting with various Ministers to discuss the establishment of a commission of inquiry and the establishment of measures to ensure the safety of young First Nations' women.

Truth and Reconciliation Commission Healing is a critical part of individual health for many of our people; dealing with the trauma and legacy of the colonial system. In June, Canada bore witness to the inaugural event of the Truth and Reconciliation Commission (TRC), held June 16 to 19 in Winnipeg to address residential schools. This was the first of seven national events that will take place across the country. A public Education Initiative on the TRC on Indian Residential Schools in Canada is being coordinated for October 2, 2010 at the Joe Mathias Center in North Vancouver. The TRC Commissioner as well as various Church and First Nations' leaders have been invited to attend and speak at this important event. These initiatives provide an excellent opportunity for collaboration between parties to the Indian Residential Settlement Agreement to begin coordination for a successful BC national event on the TRC.

PART TWO: RELATED ACTIVITIES

“Quality of Life” Table The last Quality of Life table meeting was held on September 7, 2010 at the UBCIC offices and was attended by executives of the BCAFN, the FNS and the UBCIC and representatives from INAC, including Gina Wilson, Senior Assistant Deputy Minister, Regional Operations, and George Arcand, Regional Director General (BC), and Ted Adnitt, Associate RDG, among others. While there are not finalized Terms of Reference for this Table the general purpose for the Quality of Life Table is to provide a forum for strategic-level discussions of issues of concern to First Nations, First Nations’ organizations and INAC in the BC Region. Discussion at the September 7th meeting covered many areas including; (1) engagement, (2) community development, (3) education, (4) First Nations’ Child and Family Services, (5) active measures, (6) lands, (7) emergency management, (8) Capital & Infrastructure and (9) Governance (beyond the *Indian Act*). The Parties once again discussed formalizing a Terms of Reference for this Table but agreed that the focus of the next meeting will be on current engagement strategies as well as specific discussions on ATR, Active Measures, program authority renewals and INAC’s Community Development Framework. Finally, there was general support for the idea of having quarterly meetings of the Quality of Life table whose purpose and objectives would be worked out in a collaborative manner.

United Nations’ Permanent Forum on Indigenous Issues I would like to once again congratulate Grand Chief Edward John on his appointment to the United Nations’ Permanent Forum on Indigenous Issues. The Permanent Forum has been instrumental in securing the passage of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). It is encouraging that Canada intends to sign on to the UNDRIP along with the United States and New Zealand; the last three hold-outs. The National Chief has made it a priority to ensure Canada lives up to this expectation and this issue is being addressed through the Council of Federation working group. In Canada, domestically, section 35 of the *Constitution* recognizes and affirms our rights and, internationally, the UNDRIP can assist in interpreting and defining these rights. Our challenge now, after living in the shadow of the *Indian Act* for so many years, will be how to translate our rights into tangible benefits for our people that our people support.

September 13, 2010 marked the third anniversary of the passing of the UNDRIP, adopted by the UN General Assembly on September 13, 2007.

Council of the Federation: The National Chief and the leaders of other national Aboriginal organizations met on August 4, 2010 in Churchill, Manitoba with the Council of the Federation, the name given to meetings of provincial Premiers and Territorial Leaders. This year, under the continuing leadership of the National Chief, the AFN focus is to build upon our efforts supported through the CoF and AAWG processes and highlight further opportunities for engagement and action. This year, with an ongoing emphasis on education, economic development and violence against women, the AFN sought a commitment for more regional level engagement between respective Provinces and Territories and their regional First Nation counterparts, and to build this into the ongoing reporting structure that has been established with the AAWG.

In addition, recognizing the key objective of confirming the formal engagement of the Federal Government, AFN is seeking a renewed call to the Prime Minister to host a First Ministers' Meeting. In order for this call to be effective, the AFN needs to ensure that there is an established agenda that not only would be supported by the federal government, but one that seeks to identify outcomes in a manner that is both concrete and tangible to warrant such a meeting.

We are taking forward strong recommendations on behalf of the National Executive to challenge all jurisdictions to work with us, particularly on critical improvements in education to support our students and to improve completion rates at every level. We seek action and commitment from the Provinces and Territories as well as joining us in a strong call to the Prime Minister for a First Ministers' Meeting focused on education.

BC Youth Meeting On Monday August 3rd, 2010, the Board Members from the First Nations Youth Council of British Columbia (FNYCBC) met with the female and male British Columbia Assembly of First Nations (BCAFN) youth representatives as well as myself and the A/Executive Director of the BCAFN. The purpose of the meeting was to support building strong relationships between First Nations' young people in BC and the BCAFN youth representatives and the regional and national political levels, by identifying the roles and responsibilities, mandate, and objectives of both parties. Resulting from the discussion was the consensus opinion that the FNYCBC is looking to become the arm of engagement for BCAFN youth representatives, thereby ensuring that youth voice is well represented within the BCAFN and the AFN. An important result foreseen from building the relationship in this way is that First Nations youth will become more involved and BCAFN youth representatives will therefore improve as role models of youth engagement. The participants in the meeting drafted a Protocol Agreement between the FNYCBC and the BCAFN youth representatives that will serve as a foundation for building this relationship. They also spoke about the BCAFN youth representatives' elections, and proposed several ways of ensuring that more youth are included in the voting process. Resulting from this discussion were several next steps, including: (1) holding several additional meetings to discuss incorporation of the FNYCBC as a society; (2) continue discussing the drafting and signing of a Memorandum of Understanding between the FNYCBC and BCAFN youth representatives; (3) always discussing the roles and responsibilities of the FNYCBC and BCAFN youth reps to each other and most importantly to First Nations young people in BC.

BC Elders Gathering: For the past 34 years, First Nations Elders have met in distinct locations of British Columbia. The first Elders Gathering was hosted by the Coqualeeza Elders. Frances Harne carved a totem pole, which was used as a record keeper; places and dates were inscribed at the base of the pole, recording each Gathering. Elders Gatherings are a wonderful time for people to visit and exchange memories and knowledge, to create new friendships and to renew old ones. These Gatherings provide a chance to gain perspective on how other First Nations live. The basic purpose of the Gathering is the need for Elders throughout the province to have inter-social and community links that bind them together across Nations. It allows them to

intermingle with like-minded, like-aged individuals and their families, and to reveal common grounds that strengthen those links. It also provides the opportunity to interface with youth, which helps to mitigate the generation gap, and allows the younger generations to demonstrate respect, regard, and honour for their Elders. It is very important that this event continues and that our Elders' legacy is passed on to each generation that follows.

PART THREE: BC ASSEMBLY OF FIRST NATIONS OPERATIONS

Information Sharing/Webpage As reported in previous reports, the BCAFN is committed to information sharing among First Nations regarding our successes, lessons and various federal, provincial, industry/corporate and First Nations' initiatives. In furtherance of this objective, the BCAFN began work on updating our webpage in the spring of 2010 and we have engaged Ernest von Rosen of AMGmedia Works Inc. to design and complete the new BCAFN website. It is our target to launch the new webpage in October 2010.

Many of the features of our current webpage will be retained on the new webpage, including general information about the BCAFN, copies of BCAFN resolutions, press releases and other BCAFN publications. In addition to this existing information, our new webpage will contain information about federal and provincial policy initiatives being undertaken by the national Assembly of First Nations and other provincial/territorial organizations to advance our Aboriginal title and rights, including treaty rights. We will also report on progress in implementing the *Building on OUR Success Action Plan* on the webpage in the four key areas of strong and appropriate governance, fair land and resource settlements, improved education and individual health. Finally, the new webpage will have a designated page for each First Nation in BC.

BCAFN Staff: Our office consists of a Director of Operations, a Policy Analyst, an Executive Assistant, and a Finance Clerk/Scheduler. We also have on contract a part-time comptroller, finance clerk and bookkeeper as well as ad hoc advisors to the Regional Chief. We are pleased to announce the following additions to the BCAFN Staff. Courtney Daws will be joining our team as the Director of Operations on September 27, 2010. Angie Derrickson will be filling the position of Policy Analyst also commencing September 27, 2010. Both Courtney and Angie are welcome additions to our small but hardworking staff. We are also pleased that Erin Shevchuk is now our full-time finance clerk and the Regional Chiefs' scheduler. Any requests for the Regional Chief to attend meetings or speaking engagements should be directed to Erin at executive.assistant@bcfn.ca. Also, any inquiries regarding travel claims or financial matters should be directed to Erin at finance@bcfn.ca.

Cheryl Wadhams continues to serve as the BCAFN's Administrative Assistant. Any general requests can be directed to reception@bcfn.ca. Ping Zhang of Reid Hurst Nagy serves as our financial controller. Ada Man of Reid Hurst Nagy serves as our part-time bookkeeper.

Debra Hanuse has served as our A/Executive Director since October 2009. Debra last official day in this capacity was August 31, 2010. We are pleased that Debra will continue working with the BCAFN in an advisory capacity. Nicole Hetu, former Advisor, last day at the BCAFN was September 3, 2010. We thank Nicole for her contribution to the BCAFN and wish her the very best in her future endeavours. We appreciated having Makonen Bondoc work with us for three months as a summer intern through the provincial government's Aboriginal Youth Internship Program.

NOTICES

NOTICE - All Chiefs Assembly

December 1, 2 & 3, 2010

The BCAFN is also one of three provincial-territorial organizations in British Columbia that make up the First Nations Leadership Council (the "FNLC").

The All Chiefs' Task Force has completed an Action Plan, which sets out priority issues that First Nations wish to address over the coming year and beyond, with BC and Canada. The All Chiefs' Task Force is also working with the FNLC to develop a revised mandate statement for the FNLC and Terms of Reference to guide the future work of the FNLC and its various councils and working groups.

The purpose of the All Chiefs' Assembly is to provide a forum for First Nations to consider the final report and recommendations of the All Chiefs' Task Force and to adopt the draft action plan, the revised mandate statement and the Terms of Reference.

The hosting of a fall All Chiefs' Assembly is supported by the First Nations Summit, Union of BC Indian Chiefs and the BC Assembly of First Nations.

NOTICE

**Fall 2010 Planning and Dialogue Forum
Nation Building and Nation Re-Building:
Supporting Capacity for First Nation Governments – Developing an Appropriate Governance
Framework
November 8 & 9, 2010**

Details as to the Agenda and Location will follow shortly.

**First Nation Advocacy Day with Parliamentarians and Ambassadors
Tuesday September 21, 2010**

The national office of the Assembly of First Nations (AFN) coordinated a First Nations' Advocacy Day with Parliamentarians and Ambassadors on Tuesday September 21, 2010. The intent of this day was to continue with direction provided by Chiefs-in-Assembly at the recent 2010 Annual General Assembly, with a special focus on education. From all accounts, NWAEE and the First Nations Advocacy Day proved to be very successful. In Ottawa, Chiefs and representatives met with over 50 MPs on advocacy day and had 120 people present at the scheduled breakfast reception, including 6 embassies.

National Week of Action on Education, September 19-24, 2010

Many of events were planned across the country to draw local, regional and national attention to inequitable treatment in First Nations' Education. Communities, schools and regions were invited to attend events in Ottawa, and were encouraged to coordinate and promote additional local and regional events to support this important Week of Action.

The Week began with a march from Kitigan Zibi, Quebec (to Ottawa) on Sunday, Sept. 19, with Nations gathering for a rally and cultural celebration on Parliament Hill on Thursday, Sept. 23 from 1PM to 4PM. For more information please visit www.afn.ca.