



BC ASSEMBLY OF FIRST NATIONS

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BC REGIONAL CHIEF'S QUARTERLY REPORT November 2009

Prepared by

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INTRODUCTION

Gilakas'la. I was elected Regional Chief of the BC Assembly of First Nations (BCAFN) on a platform that called for implementing a plan entitled "Building on OUR Success". The vision is that the plan must empower, connect and support our Nations as each Nation implements its Aboriginal title and rights, including any treaty rights. The elements of this plan are based upon what I have heard from our Chiefs and communities and are supported by numerous resolutions of the BCAFN and the AFN that have been passed over the years. In fact, elements of the plan are supported by numerous resolutions passed by both the First Nations Summit and the Union of BC Indian Chiefs. Based upon this mandate and with your continued support, the BCAFN intends to further develop and implement the plan. Accordingly, my quarterly reports will be structured around our collective efforts as they relate to the implementation of the four key areas identified in the plan. These are 1) Strong and Appropriate Governance 2) Fair access to Land and Resources 3) Improved Education, and 4) Individual Health.

"BUILDING ON OUR SUCCESS" – IMPLEMENTING THE PLAN

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."

Comprehensive Governance Negotiations: Many of our communities are rebuilding their institutions of governance with respect to their traditional territories and/or their existing Indian Reserves. Some are developing Constitutions. It is my intention to have a discussion among our Nations to facilitate and advance these governance initiatives and to find ways for each of our Nations that so desire to establish their own negotiation tables with Canada and, where appropriate, BC to address issues of jurisdiction and transition.

First Nations' Governance Assessment Tool: Through the BCAFN we intend to develop a First Nations' governance assessment tool that can be used by interested Nations to assist in determining where you are in terms of building/rebuilding your institutions of governance; a prerequisite to long-term success and stability. We all need strong and appropriate governance if we are to make the most of our opportunities to benefit from our title and rights. The governance assessment tool will be designed to identify any gaps in a First Nation's organization as well as some of the options that are currently

available to advance your governance and connect you with other Nations facing similar issues and challenges. The tool will also help to identify where we need to collectively push Canada, and to some degree BC, to open up the doors to recognize our full governance requirements. We are looking to find partners to help us support this work, both financially and administratively. If you are interested in participating in the development of this assessment tool or to share your ideas, please email me at regionalchief@bcfn.ca.

AFN - First Nations Governments Committee: The National Chief has established the following five committees: 1) First Nations Families 2) Exercising and Implementing Rights 3) First Nations Governments 4) Environment and Economy, and 5) a Management Committee. Regional Chief George Stanley of Alberta and I have been assigned the First Nations Governments portfolio. The First Nation Governments Committee will be responsible for the following issues: citizenship and nation building; justice and dispute resolution; comprehensive claims review/negotiations; specific claims; and, urban strategy.

Indian Government Support Programs: All First Nations, Tribal Councils and First Nations Institutions receive financial support through INAC. How this funding is calculated and what it can be used for is critical as we re-build our governments. The federal authorities for the Indian Government Support Programs are currently being reviewed, re-designed and renewed as the existing Treasury Board authorities are expiring. The changes to the Indian Government Support Programs will affect every First Nation and we need to ensure that they meet our evolving needs and responsibilities. While this work has been on-going for some time, the BCAFN is looking at ways to bring this review forward to the Chiefs and communities in British Columbia to ensure that we can have an informed discussion and are able to influence the design of the new authorities to meet our communities' needs and interests. For more information, or to share your community's ideas, please email me at regionalchief@bcfn.ca.

First Nations' Citizenship and the McIvor Case: Determining Citizenship is a fundamental component to nationhood and necessary for strong and appropriate governance. Although as First Nations we have never ceded this right, the *Indian Act* and other policies have undermined our own laws and divided our families and communities. In 1987, Sharon McIvor argued that the 1985 amendments to the *Indian Act* were discriminatory against First Nations' women and children. Sharon won her case at trial. The Federal Government appealed this decision. In a complicated decision the BC Court of Appeal allowed the appeal in part but ruled that the original decision went too far in attempting to remedy all discrimination under s.6 of the *Indian Act* and instead declared ss.6(1)(a) and 6(1)(c) of the *Indian Act* to be of no force and effect. Sharon McIvor sought leave to appeal this ruling to the Supreme Court of Canada. However, on November 5, 2009, the Supreme Court announced that it would not hear Sharon's case regarding continued gender discrimination in regard to the "status" provisions of *Indian Act*.

Now that the Supreme Court has decided not to hear the case, in accordance with the BC Court of Appeal decision, the federal government has one year to amend the *Indian Act* to bring it in line with the Appeal court's findings. INAC has told us that the government will introduce amendments to the *Indian Act* in early 2010. The AFN national office is conducting research on these issues including taking a comprehensive legal and policy review of INAC's options. Given that these amendments to the *Indian Act* will be coming next year, this issue is a priority. This work will affect all our communities and now raises, once again, the need for each Nation, to take a position on who its citizens/members are and the relationship of citizenship to the determination of status under the *Indian Act*. We will keep you updated and involved in the work being conducted to address this issue. For more information or to share your ideas please email me at regionalchief@bcfn.ca.

Jurisdiction and Management of Water and Wastewater: After the Walkerton crisis and the ongoing issue of clean water and the lack of regulation on-reserve, some years ago INAC embarked on a program to regulate water quality and water management on-reserves. A few of our communities have already assumed jurisdiction over water management and delivery on-reserve, but for the most part our communities administer federal programs and policies. As part of its water quality initiative, Canada is developing federal legislation that would incorporate by reference provincial/territorial regulations relating to potable water and wastewater on-reserve. There may also be some room for the exercise of limited First Nation jurisdiction over water management, but still short of self-government. For its part the BCAFN participated in an 'Impact Analysis' on having provincial water and wastewater regulations apply on-reserve and we provided our findings to the Institute on Governance. The Institute on Governance tabled a report that concluded that most First Nations at this time are generally nowhere near to being able to meet provincial standards. They concluded that applying these standards now would be 'calamitous' for many communities. This is a serious issue because while our citizens living in our communities demand that our water systems meet basic standards expected elsewhere across Canada, most of our governments do not have the capacity or the resources to meet those standards. Clearly, there is no point in having standards if we cannot meet them as we will set ourselves up for failure and liability. The real question is why can't all our communities meet basic standards and how do we work so that we all can and that no community is left out or behind.

INAC may have approached you to seek support to move ahead on drafting enabling legislation. We expect that the legislation will be tabled in the House of Commons very soon. As First Nations, we need to establish appropriate systems of governance over water management and distribution in our communities and ensure that we have the resources to meet any standards set. We need to ensure we have trained people to work in our communities, have access to capital and proper planning. The proposed federal legislation will be a test for how well we are currently prepared to address this aspect of local jurisdiction on our reserves. At the BCAFN we would like to create a dialogue on this issue and find out what your community thinks or is doing with regards to jurisdiction over water.

2. Fair Access to Land and Resources

“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.”

First Nations' Task Force: As a result of the fallout from the failed recognition and reconciliation legislation proposal, a Task Force was set up of our peers to provide options for moving forward collectively on our title and rights issues. This is important work as we all grapple with what is the best way to organise provincially around these issues and what role each of the three PTO's in the province take (BCAFN, First Nations Summit and the Union of BC Indian Chiefs). As I said during my campaign we are winning in the courts and some of us are succeeding in negotiations so we need to sort out the issue of 'proper title holder' and how we work together in order to capitalise on our opportunities. Our Nations are demonstrating success in implementing aboriginal title and rights on the ground through three interrelated approaches: 1) Litigation, 2) Negotiations and 3) the Exercise of rights. Our Nations are playing different roles in what is becoming a collective approach to moving forward. We need to build on our experiences and support one another in developing our collective strategy. I look forward to the recommendations of the Task Force.

Fish and Fisheries Management: Congratulations to the Nuu-chah-nulth people. History has been made in the *Ahousaht Indian Band and Nation v. Canada* court decision. BC Supreme Court Justice Garson ruled that the Nuu-chah-nulth peoples have an Aboriginal right to fish for any species of fish in

their territories and to sell the fish. She ruled that the *Fisheries Act* and regulations made pursuant to the *Act* infringe the aboriginal right of the Nuu-chah-nulth peoples to fish and to sell fish. The Court directed the parties to negotiate the manner in which the Nuu-chah-nulth aboriginal rights to fish and sell fish can be accommodated and exercised and set a timeframe of two years. By affirming the right to fish commercially in their traditional waters, this ruling clearly provides the Nuu-chah-nulth and all First Nations, with a solid foundation on which to rebuild and strengthen our economies through the fair access to our resources. We must continue to build on this success for all First Nations. The objective is now to ensure First Nations have fair access to the fish resource and to build on this decision notwithstanding any appeals and to apply these principles to other resources.

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.”

Reciprocal Tuition Agreement: At the November 5-7, 2009 15th Annual Provincial Conference on Aboriginal Education, co-hosted by the First Nations Education Steering Committee (FNESC), FNESC and the Ministry of Education signed a Reciprocal Tuition Agreement. The agreement provides that the Province will pay the full tuition costs for off-reserve students attending First Nations’ schools on-reserve. This agreement represents an important step forward in recognizing the role that First Nations’ schools play in the total education system.

Minister’s Aboriginal Affairs Working Group: During the ‘Council of the Federation’ meeting held this summer, provincial and territorial Premiers held a pre-meeting with the National Aboriginal Organizations. At this meeting, they announced their intention to form a Ministers’ Working Group with the national Aboriginal leaders and the federal government. This working group was directed to examine how to improve certain ‘outcomes’ for First Nation, Inuit and Métis peoples. They were tasked to focus on tangible, concrete and results-oriented action in the areas of Education and Economic Development with the intention of having this action serve as the foundation for a possible First Ministers Meeting Aboriginal Issues in 2010. On October 29, 2009, I attended along with the National Chief, and two other Regional Chiefs, the first working group meeting with the Aboriginal Affairs Ministers and the leaders of the other national Aboriginal organizations. At this meeting there was agreement to all work together. Minister Strahl also attended. In addition to the two identified priority areas (education and economic development) participants acknowledged that the area of health and well-being is fundamental to achieving progress in those two identified areas. This working group initiative will be discussed at AFN’s Special Chief’s Assembly in December 2009. The BCAFN office will ensure that you receive materials relating to this initiative prior to the Special Chiefs Assembly, and this will be one of the key issues for discussion during our BC caucus meeting on December 8th.

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.”

First Nations’ Health Council: The First Nations’ Health Council is a stand-alone organization with a broad mandate concerning a complete array of health issues facing government and our communities in implementing the Health Plan First Nations agreed to a number of years ago with BC and Canada. Pursuant to the Health Plan and with the support of the Health Council, Canada and BC are looking to enact legislation to create a province-wide First Nations’ Health Authority. This is perhaps the largest governance initiative concerning health care for our people ever in this province, outside of individual

agreements made with Nations through treaty. As this initiative develops it is important we have an open dialogue about the opportunities and the risks and how it relates to our Nation building exercise.

H1N1: We are all concerned about the H1N1 virus but there is still no reason to panic. We need to encourage all our people to get inoculated. I recently received my H1N1 shot and was told by the nurse in my home community that I probably had already contracted H1N1 given my symptoms. Please take care of yourselves. In addition to following basic hygiene, some good advice I have been given is to get enough sleep. At the BCAFN we are interested in your experiences in your communities as you deal with H1N1 so we can learn from this experience. On September 19th, the National Chief signed a Communications Protocol with the federal ministers of Indian Affairs and Health Canada committing Canada and the AFN to work together to plan for and respond quickly and effectively to an H1N1 flu-virus pandemic in First Nation communities. We need to know how well this Protocol is working. If you are having any difficulties in your community getting help with H1N1 please let our office know.

BC ASSEMBLY OF FIRST NATIONS (BCAFN) IN TRANSITION

Policy Development: BCAFN is undergoing a period of transition and administrative reform. Since being elected to office, I have been reviewing the organizational structure of the BCAFN in order to ensure we have a stable and effective administration through which we can carry out the implementation of the "Building on OUR Success" plan. We are reviewing the BCAFN's administrative policies, and bylaws to ensure the governance and administrative structures of the BCAFN are appropriate to the needs of our evolving organization. The BCAFN, as all our political institutions, must be held to the highest of governance standards and no less than the members of our communities expect of our respective First Nations' governments.

Although the BCAFN is a political body and the Regional Chief is accountable to the Chiefs in Assembly, legally, the BCAFN operates as a society under the *Society Act*. As such, we have a Board of Directors whom are elected by the members of the society. The current Board Members are: Chief Lydia Hwitsum (Cowichan Tribes), Chief Maureen Chapman (Skawahlook First Nation), Chief Nelson Leon (Adam's Lake Indian Band), Chief Tony Morgan (Gitanyow First Nation) and Chief Marjorie McRae (Gitanmaax Band). The Board plays a critical role in ensuring the accountability of the BCAFN to the member First Nations and provides direction to the organization. I will be relying on the Board to provide oversight to our operations and to adopt the necessary policies and bylaws that ensure the BCAFN will always be accountable to the Chiefs and so that our activities are transparent.

Budget: The BCAFN has a limited core budget which we receive from Canada. The cost of the Regional Chief and travel for national business is paid directly by the national AFN office. From time-to-time the BCAFN enters into contracts with Canada and other bodies for specific projects. The core operations of the BCAFN, including the cost of full-time staff, must be accommodated within our core budget. We are currently developing a revised budget for the BCAFN and its operations and developing a new chart of accounts that reflects the BCAFN's core responsibilities and operations with separate accounting for specific projects. Given the limited size of the BCAFN's budget, and not wanting to take away from the resources that need to be directed to our individual Nations, the effectiveness of the BCAFN will be determined by our ability to connect our Nations and share our work and experiences. This is central to the plan. Consequently, we are developing a communication strategy to set out how our communities can more effectively work together through the office of the BCAFN Regional Chief to share our stories, our voice and our expertise. We will be updating our website and relying on continued feedback and contribution from the Chiefs and our communities.

Staff: The current administrative staff of the AFN is: Debra Hanuse (Namgis First Nation), former in house legal counsel and now Acting Executive Director; Marcia Guno (Nisga'a Nation) hired as Political Aide to the Regional Chief; Chris Lewis (Squamish Nation) is our Senior Policy Advisor, and; Cheryl Wadhams (Namgis First Nation) who remains an Administrative Assistant.

Administrative Efficiency: Finally, in terms of First Nations' political organisations in BC, I am committed to ensuring that we limit duplication of our efforts and therefore need to consider the most efficient way to organise collectively to advance and implement our title and rights, including treaty rights. Where appropriate we may need to streamline and combine our efforts with the First Nations Summit and the Union of BC Indian Chiefs. To this end we will be advised by the findings of the First Nations Task Force and in my relationship and discussions with the executives of the Union of BC Indian Chiefs and the First Nations Summit.

REMINDER
AFN Special Chiefs Assembly

The Assembly of First Nations will soon hold a Special Chiefs Assembly December 8-10, 2009 in Ottawa, Ontario. The meeting will be extremely important as Chiefs will engage in a review and discussion around First Nations-Crown relations. There will be dialogue sessions on Treaty, Aboriginal Title and Rights / Comprehensive Claims and Land Claims Agreement Coalition: Implementation.

Please note that before the Assembly, there will be a reception on December 7th for First Nations and leaders to meet and greet the Members of Parliament (MPs.).

I urge all Chiefs to make every effort to attend the Special Chiefs Assembly to ensure that a strong BC position is represented. If you cannot attend the Special Chiefs Assembly, you may sign a proxy letter. At your request, the BCAFN, can designate one of the Chiefs in attendance to vote for you. Information on the assembly is available on our website at www.bcafn.ca or by contacting the BCAFN office at 604-922-7733.