BRITISH COLUMBIA ASSEMBLY OF FIRST NATIONS



REGIONAL CHIEF'S QUARTERLY REPORT

June 8th, 2012

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TABLE OF CONTENTS

PART ONE: BUILDING ON OUR SUCCESS – IMPLEMENTING THE PLAN	3
1. Strong and Appropriate Governance	3
BCAFN Governance Toolkit – A Guide to Nation Building:	3
BCAFN Initiative to Develop Federal Self-Government Recognition Legislation	
Exploratory Process on Citizenship – An Update:	
First Nations-Crown Gathering:	6
BC Joint Gathering 2012:	7
BCAFN Engagement with Province:	7
Parliamentary Update:	
First Nation Land Management – Historic Framework Agreement Signing:	10
2. Fair Lands and Resources	11
BCAFN Legal/Political Strategy Session:	
Fiscal Relations Working Group Meeting:	12
Enbridge Northern Gateway Project:	12
BC Treaty Process updates:	13
Conference on Pre-Confederation Treaties:	
AFN National Water Forum:	15
The Cohen Commission:	15
AFN Chiefs' Committee on Claims (CCoC) and Comprehensive Claims Policy (CCP) Working	
Group—an update:	
3. Improved Education	17
National Panel on First Nations' K-12 Education:	
BC Tripartite Education Framework Agreement:	17
4. Individual Health	17
First Nations' Health Council—Gathering Our Wisdom:	18
Child and Family Caring Society of Canada (FNCFCS) and the Federal Court:	
Update on National Aboriginal Justice Strategy:	19
Gathering Our Voices Youth Conference:	19
Truth and Reconciliation Commission, Regional Event, Victoria, BC:	19
PART TWO: OTHER RELATED ACTIVITIES	20
Musqueam and Marpole Midden-an update:	20
United Nations Permanent Forum on Indigenous Issues, New York:	20
Audience with His Royal Highness, the Prince of Wales:	20
PART THREE: BC ASSEMBLY OF FIRST NATIONS' OPERATIONS	21
BCAFN Staff:	21
Information Sharing/Webpage:	
NOTICES	22

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 Governance Toolkit – A Guide to Nation Building: We are very pleased to hear that so many of you are finding the Toolkit useful in sorting through the complexity of governance challenges and options facing our Nations. Every First Nation in BC, either individually or as a group of First Nations, is involved in some form of governance reform and moving away from governance under the *Indian Act*. The Toolkit has been developed as a practical guide, drawing on the experience of our First Nations in BC and continues to evolve. Thank you to everyone that has and continues to be involved. The Toolkit will continue to only be as good as the information that we have to feed into it. The Toolkit is designed to be used by leaders, staff and citizens to assist in the development of your critical path in achieving your Nation's governance objectives.

Part 1 - The Governance Report: Part 1 of the Toolkit, the Governance Report was launched in June 2011 at the BCAFN Special Chiefs' Assembly. Every First Nation and Tribal Council was sent a copy. All of the 1st edition copies have been given out; however, the Report is available on our website to download in whole or in part. The Report is in four sections which cover: 1) Options for Governance Reform; 2) Core Institutions of Governance; 3) Powers (Jurisdictions) of the First Nation; and 4) Financing First Nations' Governance. If your Nation is working on a particular governance initiative or has information about governance reform that is not covered in the Report, please let us know. The Governance Report is continually being updated and we want to make it as comprehensive as possible. The BCAFN continues to hold dialogue sessions with interested First Nations and groups of First Nations, and most recently held a regional Governance Dialogue Session on March 13th, 2012 at the Vancouver Island Conference Centre in Nanaimo to discuss, share and explore options for governance reform. If your Nation or region would like to host a dialogue session please contact our offices.

Part 2 – The Governance Self-Assessment: The Governance Self-Assessment is in two modules and has been developed to assist communities in assessing the current effectiveness of your governing body, the progress in building/re-building the institutions of governance and identifying and assessing any gaps in your administrative/organizational structures. We continue to refine Part 2 through Pilot Projects and have created a beta version of a web-based survey that can be accessed by all Nations that are interested in undertaking a self-assessment. Several Nations have already piloted the self-assessment or online survey tool. We are very pleased to be working with Accreditation Canada and have agreed to work jointly on exploring the development of the self-assessment tool, including software development. We are planning on entering into a Memorandum of Understanding with Accreditation Canada in this regard. The Governance Self-Assessment will be released in its final form in Nov/Dec. 2012.

<u>Part 3 - A Guide to Community Engagement</u>: The BCAFN is currently engaged in refining the Community Engagement part of the Toolkit. We hope this Guide will help assist communities in developing momentum for change by bringing the discussion of good governance back to our respective citizens. Without community engagement, legitimate governance reform is really not possible. It is important that we ensure our citizens are fully engaged and supported as they will ultimately be directing change within our communities and in some cases voting on governance reforms that take our communities beyond the *Indian Act*.

I am pleased to say that the Community Engagement Guide will be formally released at our BCAFN Special Chiefs' Assembly June 28th- 29th, 2012.

BCAFN Initiative to Develop Federal Self-Government Recognition Legislation: As we continue to work with communities on governance initiatives, it is becoming clear that there is a growing momentum to move away from the *Indian Act*. Many of our First Nations in BC are engaged in some form of governance reform. In writing the *Governance Report* it has become very clear to me, as it has to others, that the pace at which our Nations can move beyond the *Indian Act* is severely limited due to the absence of an effective mechanism for First Nations to become self-governing when they are ready, willing and able to do so. If you want to become self-governing

you either have to go to court or line up with other First Nations to try and negotiate an agreement with Canada and where necessary with the government of BC. We need a better mechanism based on recognition. This was something that was recommended by the Penner Committee on self-government back in 1983 and by the Royal Commission.

I am very pleased to confirm that building on the mandate from the June 2011 BCAFN AGM, and with considerable help from our friends in the Senate, we are currently developing a private members Bill, a "First Nations Self-Government Recognition Act", to be introduced into the Senate. If all things go as planned, the private members bill should be introduced later this year. This is very exciting. Similar bills have been introduced before but have not been successful in becoming law. In a nutshell, what the legislation would do is provide the legal mechanism for Canada to "recognize" a First Nation (or a group of First Nations) as self-governing where the community (or communities) has developed and ratified its own Constitution. The effect of recognition would remove that First Nation or group of First Nations from most of the application of the *Indian Act* along with recognizing a range of legislative powers that the First Nation would have the choice to exercise. There would be no requirement for negotiations with Canada. Not only would this legislation greatly improve governance on-reserve, it would also help us to advance our efforts to secure fair access to lands and resources within our un-ceded Aboriginal title lands off-reserve where, for the most part, there are no treaties.

Any governance recognition legislation will, obviously, be opt-in. But, opting-in, in the case of this proposed legislation, does not mean Canada gets to play "gatekeeper" as to who can opt in.

At our Legal/Political Strategy session in Westbank on March 28-29th, 2012, I was pleased to offer those in attendance more detail on this initiative for discussion amongst our leadership. Some have asked questions regarding whether title to First Nations lands would be affected by this proposed recognition legislation. The answer is no – title to First Nations lands is not effected by the proposed legislation. Our discussions will continue at the Special Chiefs' Assembly in June. There is, of course, no guarantee that the federal government will support the eventual Bill, as previous iterations have not made it into law; however, with our collective efforts and lobbying we hope that it will. If we do not succeed this time around, we will keep trying until we do. Enough has been said about the need for self-government and the legal basis on which our rights are founded. Now it is time to act. If you would like to be more actively involved in the discussions and the planning for this proposed self-government recognition legislation, please contact me directly.

On June 4th, 2012, private members bill, Bill C-428: An Act to Amend the Indian Act (publication of by-laws) and to Provide for its Replacement was introduced in the House of Commons. I have provided a brief overview of this initiative in the parliamentary update below, but I want to note that this private members bill is in no way connected to the ongoing work of the BCAFN to develop self-government recognition legislation. The BCAFN has not been involved in any way with Bill C-428.

Exploratory Process on Citizenship – An Update: Issues relating to determining citizenship in our respective Nations have and continue to emerge through dialogue with First Nations in BC. Many of these issues are talked about in our Toolkit. Determining who is to be a "citizen" of our Nations is one of the most important decisions our peoples will have to make, regardless of whether governance is in respect of reserve, settlement lands or beyond. The decisions we make regarding citizenship will impact on the identity and make-up of our communities today and into the future.

With the coming into force of the federal *Gender Equity in Indian Registration Act* (Bill C-3) on January 31st, 2011, the federal government announced an "exploratory process" on citizenship – a process which supported community engagement sessions across the country. This was in part recognizing that broader issues exist that go beyond the scope of Bill C-3 and resulted due to pressure on Canada by many people and organizations, including the AFN. The exploratory process helped create an opportunity to examine and explore issues related to First Nation Citizenship, Band Membership and Indian Registration. Here in BC as part of this process and building on the successes of our communities, the BCAFN held a Citizenship Forum on November 29th, 2011. Based upon our previous work and discussions with our leadership and communities at this forum, the BCAFN has produced an informational brochure on citizenship and the development of a constitution. BC First Nations will receive copies of this brochure and it will be made available at the up-coming BCAFN Special Chiefs' Assembly.

First Nations-Crown Gathering: Thank you again to those that provided feedback into the "BC Proposed Solutions and Desired Outcomes" that we tabled with the Prime Minister at the First Nations-Crown Gathering on January 24th, 2012. These solutions were based around the BCAFN Action Plan and what we are actually doing here on the ground in BC to make a difference to the lives of our people. Immediately following the Gathering, an "outcome statement", including next steps was released by Canada and the AFN. As a first step, Canada and the AFN committed to work on a renewed relationship. There was a commitment to work to develop solutions to remove barriers that hinder First Nations' governance. Also, a commitment to respect and honour the treaty relationships and advance approaches to find common ground on treaty implementation.

As the holder of the national AFN's First Nation Governments and Nation building portfolio, I continue to work with our National Chief and the AFN executive, along with my colleagues on the First Nations Leadership Council, other governments, and of course all of you on the "next steps" identified at the First Nations-Crown Gathering. These next steps were discussed at the BC Joint Gathering with AANDC's officials in February and will be further discussed at the upcoming national AFN AGA in Toronto in July. The upcoming BCAFN Special Chiefs' Assembly in June, where the focus will be on "community engagement" and our BCAFN AGM in November will provide additional opportunities for discussion.

From my perspective the next steps must include how we are looking at moving beyond the *Indian Act*, including, if all goes as planned, our proposed private members Bill, the *First Nations Self-Government Recognition Act*. Part of the commitment Canada made in the "outcome statement" was agreeing to work to create the conditions to enable sustainable and successful First Nations. A realistic mechanism to facilitate self-government is my idea of what that

commitment should mean in practice and I intend, with your continued support, to push Canada on this point.

To view the full First Nations-Crown Gathering Outcome Statement document, and other related materials from the Gathering please visit our website (www.bcafn.ca).

BC Joint Gathering 2012: The First Nations Leadership Council, together with AANDC BC Region co-hosted a BC Joint Gathering in Vancouver, February 7-10th, 2012 to discuss matters of importance between us and building on the national gathering held in January. Following the Joint Gathering, AANDC and the FNLC prepared a Summary Report. The Report has now been distributed to you and the representatives who attended from our First Nations. A copy of the Report will be made available on our website at www.bcafn.ca. The BCAFN, as part of the FNLC will continue work with AANDC BC Region to develop an Action Plan based in part on this Summary Report. The next step is to discuss and receive feedback from our Chiefs on the Summary Report at the June 2012 BCAFN Special Chiefs' Assembly. There are a lot of planning activities on-going and it is important they are coordinated and we remain focused.

BCAFN Engagement with Province: On March 30th, 2012 the First Nations Leadership Council met with BC Premier Clark and her Deputy Minister, John Dyble in Vancouver. The purpose of this meeting was to seek the Premier's commitment to re-engage with BC First Nations at a senior political leadership level, as a first step to improving and strengthening the existing relationships between BC First Nations and the provincial government. A follow up meeting is being planned between the FNLC and the Premier's Deputy Minister. The BCAFN will continue to provide updates as this work continues.

Parliamentary Update: As I reported in my previous updates, as I raised with the Prime Minister at the First Nations-Crown Gathering, and as I continue to inform the federal government each time I speak before a parliamentary committee, we are very concerned with Canada's legislative agenda. The legislative agenda seeks to build our governance beyond the Indian Act, but does this "for us", and in advance of recognition that would see our communities take back control ourselves. It is as though Canada is challenging us by their actions, saying to us that "you are not capable to govern yourselves so we are still going to do it for you." This is a form of neo-colonialism and it is one of the reasons why we have been pursuing the private members bill to recognize First Nations that want to be self-governing; and answer back to the government's own legislative agenda.

And it is not just legislation specific to our peoples that is causing our Nations' concern. The federal government's announcement of the "Responsible Resource Development" strategy in the 2012 Budget, and the subsequent support for this strategy in the government's budget implementation bill (Bill C-38) as well as the omnibus crime bill (Bill C-10) both have potentially far reaching impacts on our peoples. The BCAFN, together with the National AFN and the FNLC will continue working to ensure that the interests of our BC First Nations are understood and properly considered at the earliest possible stage of legislative development.

<u>Bill C-10: Safe Streets and Communities Act</u>: Bill C-10 received Royal Assent on March 13th, 2012 and will come into force on a date set by the Governor-in-Council. The likely impacts this Bill will have on First Nation victims and offenders is concerning, in particular the additional sentencing and removal of ability to use conditional sentences. The overall intent of this Bill, to use expensive and punitive jail measures, disproportionately impacts the First Nation population of both adult and youth offenders. The Bill does not address the underlying issues that lead to First Nation involvement within the justice system.

The BCAFN will work with national AFN to continue advocating and working to prevent additional harm through the implementation of this legislation. Also, please do not forget that weekly the AFN National office sends out a "Parliamentary Wrap Up" which provides an excellent source of information on what is happening on the Hill that affects us.

Bill C-38: Jobs, Growth and Long-term Prosperity Act: Bill C-38, known also as the federal budget implementation act, was introduced on April 26th, 2012 and contains provisions to implement commitments in the March 29th, 2012 Federal Budget. The Bill is currently at 2nd reading and will proceed to review by the House of Commons Standing Committee on Finance. A sub-committee has been struck to review the non-budgetary elements of the Bill. National Chief Shawn A-in-chut Atleo presented to the Sub-Committee on Part 3: Responsible Resource Development on May 29, 2012. As well, the AFN provided a written submission to the Standing Committee on Finance on Bill C-38. More information about both of these presentations is available on the AFN website at www.afn.ca.

Bill C-38 introduces, amends, or repeals nearly 70 federal laws including amendments to: the *Fisheries Act*, the *Navigable Waters Act*, the *Species at Risk Act*, the *Canada National Parks Act*, the *Canada National Marine Conservation Areas Act*, the *First Nations Land Management Act*, and the *Parks Canada Agency Act*. The Bill also contains a new *Canadian Environmental Assessment Act* (CEAA 2012).

Analysis of Bill C-38 and related change is ongoing given the considerable changes enacted through this Bill. Many of us have already voiced our grave concerns in regards to the proposed CEAA 2012, insisting that its streamlining of the environmental review process has specific and undesirable implications for First Nations consultation in the assessment of projects. The amendments proposed to the *Fisheries Act* under Bill C-38 have also raised concerns with regards to the protection of fish, fish habitat, and First Nations ability to engage in environmental assessments and project approval processes. The First Nations Fisheries Council has done considerable work in identifying particular issues with Bill C-38 and some of this analysis is available on their website at http://fnfisheriescouncil.ca.

In general, the changes proposed in Bill C-38 should be interpreted as extensive and many have the potential to seriously limit, through the development of subsequent regulations and policy, First Nations engagement in approval processes for major development projects.

However, on a more positive note Bill C-38 also amends the *First Nations Land Management Act* to implement changes that our Nations who are signatories to the Framework Agreement on First Nation Land Management have requested. These include changes relating to the

description of land that is to be subject to a land code, and to provide for the coming into force of land codes and the development by First Nations of environmental protection regimes.

The AFN will continue to update you as more information becomes available on this Bill. Since the full extent to which the provisions within the Bill will impact on First Nations depends upon subsequent regulations and policies that will be developed pursuant to the Bill, it will be important for all of us to have access to timely information, and the BCAFN will work with the AFN to help ensure this is the case. The First Nations Leadership Council has prepared a series of high level briefing notes which outline the changes contained in Bill C-38 and related regulatory changes that may ensue. These briefing notes are an early consideration of the Bill from the perspective of BC First Nations. Last week, I sent this information to all BC First Nations. If you would like a copy of these briefings and did not already receive them, please contact the BCAFN office.

<u>Bill S-6: First Nations Elections Act</u>: Introduced in the Senate on December 6th, 2011, Bill S-6 completed second reading and was referred to the Standing Senate Committee on Aboriginal Peoples on February 2nd, 2012. As the AFN's National portfolio holder for First Nations' Governance and on behalf of the BCAFN, I presented to the Standing Senate Committee on Aboriginal Peoples on February 28th, 2012 to speak to this Bill. My presentation to the Senate Committee can be found on our website (<u>www.bcafn.ca</u>).

As stated in my last Quarterly Report, Bill S-6 provides opt-in legislation for First Nations who conduct their elections under the *Indian Act*. The proposed legislation results from initiatives of the Atlantic Policy Congress and the Assembly of Manitoba Chiefs. The Bill proposes to extend the election term from two to four years and provides the following: provisions around considerations for common election dates; defined qualifications for candidates for chief and clear rules around the nomination process; clearly defined offences and penalties that will deter questionable election activities; and, the Minister is not involved in election appeals. Under the proposed Bill, elections can be contested in a court and it sets out offences and penalties in relation to the election of a chief or councillor. The Bill also includes provisions for the Minster to order a First Nation under the Act, including one that conducts custom elections in the event of a protracted leadership dispute. This is an aspect of the Bill that we have asked be changed as was not proposed by First Nations. Additionally, the Bill includes opt-out provisions for First Nations to transition to custom codes.

Bill S-8: Safe Drinking Water for First Nations Legislation: This is one of Canada's governance related bills and is not one that was developed by First Nations. It was introduced in the Senate on February 29th, 2012, assed second reading on April 25th, 2012 and was referred to the Senate Standing Committee on Aboriginal Peoples for study. The Standing Senate Committee on Aboriginal Peoples continues its study of Bill S-8 and more information about their work is available on their website: http://www.parl.gc.ca/ParlBusiness/Senate/Committees/. First Nations are encouraged to contact the clerk, Marcy Zlotnik at zlotnm@sen.parl.gc.ca if they wish to appear before the Committee. Previously introduced in the last session as Bill S-11, and following representations made by our people, some changes have been made to the present bill, including a commitment in the preamble for First Nation input into the development of the required regulations under the proposed Act. A non-derogation/abrogation clause has also

been added, and an explicit limitation that the bill does not authorize regulations respecting the allocation of water supplies or issues of permits for the use of water for any purpose other than as drinking water. One of the main concerns raised by our peoples has been that the Bill would create regulations regarding First Nations' drinking water, but not the capacity to comply. While some support for the changes to the bill have been expressed by Alberta and Atlantic Chiefs, consensus remains that investments are required to support capacity development for First Nations in this area, and that First Nations must be directly involved in the development of associated regulations. In any case, this is one of those examples where Canada has assumed the role to legislate for us, in this case with respect to drinking water, in the absence of recognizing our Nations' rights and responsibilities to govern ourselves. This Bill is not consistent with the concept of "self-government".

Bill C-428: An Act to Amend the Indian Act (publication of by-laws) and to Provide for its **<u>Replacement:</u>** The private member's bill was introduced in the House of Commons by Conservative backbencher Rob Clarke, MP for Desnethé-Missinippi-Churchill River and received first reading on June 4th, 2012. If passed, this act would amend the *Indian Act* to require band councils to publish their by-laws. As well, the act would repeal certain outdated provisions of the Indian Act. Bill C-428 requires the Minister of Indian and Northern Affairs to report annually to the House of Commons committee responsible for Aboriginal Affairs on the work undertaken by his or her department in collaboration with First Nations' organizations and other interested parties to develop new legislation to replace the Indian Act. At this time, it is unclear if the Harper government will support this bill. If it does make its way onto the order paper, the bill is not anticipated to be debated in the House until the fall 2012 at the earliest. Analysis of this bill and the potential impacts will be undertaken and we will report back to you as more information becomes available. Note: Bill C-428 is in NO way connected to our work on proposed self-government recognition legislation and the BCAFN has not been involved in any way with Bill C-428. We will of course continue to update you as the public dialogue around C-428 continues and as more information becomes available.

<u>House of Commons Standing Committee on the Environment and Sustainable Development:</u>
On May 3rd, 2012, National Chief Shawn Atleo appeared before the Standing Committee to present regarding the National Conservation Plan. The Standing Committee is holding hearings on the National Conservation Plan. On May 15th, 2012, the Standing Committee traveled to Vancouver to hear from First Nations regarding the development of the Plan.

First Nation Land Management – Historic Framework Agreement Signing: As Regional Chief and a Director on the First Nations Lands Advisory Board (LAB), I was very honoured to be a part of the historic signing ceremony in Ottawa on April 13th, 2012 where an additional 18 First Nations in Canada signed on to the Framework Agreement on First Nations Land Management. Eight of the 18 First Nations are from British Columbia – Aitchelitz, Haisla, Shuswap, Skowkale, St. Mary's, Stz'uminus, Williams Lake and Yakweakwioose. Congratulations to each of these First Nations who now have the opportunity to assume jurisdiction over their reserve lands and resources and opt out of the land-related sections of the *Indian Act*. While it is great for these 18 First Nations, we cannot forget that there are still many more communities that want to develop land codes but are not able to because of the federal restrictions on participation. We

will continue to lobby for other First Nations to also be able to develop land codes when they are ready.

2. Fair Lands 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." Building on OUR Success

BCAFN Legal/Political Strategy Session: Further to the recommendations of the British Columbia All Chiefs' Task Force, the BCAFN held a Special Chiefs' Assembly: Legal/Political Strategy Session on March 28-29th, 2012 in Westbank. Thank you to all of you who attended and to the many lawyers and professionals also that donated their time to present and participate. It is much appreciated. The Session in Westbank brought Chiefs and proxies together to review Aboriginal title and rights court decisions and to discuss and debate the merits of different approaches to litigation, including class action suits addressing infringements of Aboriginal title and rights. Local, regional, national and international approaches were all discussed in an effort to share our experiences in BC and beyond and to develop strategies regarding the most effective way to use the courts to achieve recognition of title and rights. A draft BCAFN Legal/Political Strategy paper was tabled and discussed and following all the excellent feedback at the session a revised paper will be distributed to you in June. The Strategy Paper will be on the agenda for discussion at the Special Chiefs' Assembly, June 28-29th in Richmond.

Briefly, the stated purposes of the BCAFN draft Legal/Political strategy are as follows:

- a. To support and assist First Nations in British Columbia by working to ensure that all First Nations have access to, and can share, timely information respecting the advancement of Aboriginal title and rights, including treaty rights, through legal action, negotiation, legislative and policy reform, international processes and governance reform;
- To support and assist First Nations in their efforts to advance strategic title and rights, including treaty rights, litigation in an efficient and cost effective manner;
- c. To provide guidance to the BCAFN Regional Chief and the Directors of the BCAFN society with respect to the role of the BCAFN in supporting the legal activities of BC First Nations including any potential interventions or other involvement by the BCAFN in any legal proceedings that concern the advancement of Aboriginal title and rights, including treaty rights;
- To work towards ensuring that negotiation processes and negotiations among or between First Nations and the federal and provincial Crown and third parties that affect

- or may affect the Aboriginal title and rights, including treaty rights, of BC First Nations are fair, impartial and conducted in good faith;
- e. To work towards ensuring that federal and provincial policy and legislation respect the title and rights, including treaty rights, of First Nations;
- f. To support and assist First Nations in their efforts to exercise their jurisdiction and implement their Aboriginal title and rights, including treaty rights; and,
- g. To support the development and implementation of communications and economic strategies to advance the Aboriginal title and rights, including treaty rights, of First Nations.

The Westbank Special Chiefs' Assembly also provided an opportunity to continue the discussion on the proposed Self-Government Recognition Legislation, building on the mandate form the BCAFN AGM held in June 2011. Finally, in preparing for this session, the BCAFN commissioned the preparation of a paper entitled "Summary of Landmark and Key Court Decisions in Aboriginal Law" which provides an overview of over 50 of the most significant cases or key decisions in Canadian law. This paper can be found on our website, www.bcafn.ca, and we will endeavor to continuously update it as further decisions are handed down in the courts.

It was a pleasure to partner with Chief Robert Louie and the Westbank First Nation and I would like to thank again all those who participated in these important discussions at Westbank.

Fiscal Relations Working Group Meeting: One of the outcomes of the Crown-First Nations Gathering was acknowledgment that we need a new "fiscal relationship" with Canada. Based on the mandate given in June 2011 to re-establish a BC Fiscal Relations Working Group and at the request of those Nations currently dealing directly with Canada's evolving policy on fiscal relations with our Nations, a first meeting of the Working Group was held in Westbank on March 30th, 2012. Those in attendance included perspectives from self-governing First Nations, those still negotiating towards self-government, and those sectoral agreements where negotiations have halted due to Canada's approach to treating our Nations' "own source revenues". The purpose of the meeting was to review and discuss options on how to address First Nations' concerns with AANDC's current "Fiscal Harmonization Initiative". It was agreed that the BCAFN would coordinate a joint response to the federal government and a letter was sent to federal Cabinet Ministers on May 28th, 2012. A second letter was sent on May 28th, 2012 with additional First Nations and the First Nations Education Steering Committee (FNESC) signing on in support of our first letter. BCAFN will assist in coordinating a meeting with AANDC representatives to discuss next steps, including the potential development of a joint working table. If your Nation is interested in being added to the distribution list for this Working Group or if you would like more information please contact our office.

Enbridge Northern Gateway Project: Enbridge and potential pipeline construction seems to be in the news every day. Clearly, Northern Gateway, the tar sands and oil-tanker traffic are key issues of our day. The Northern Gateway Project continues to be a challenging question for our Nations and for Canada as a whole. The project is viewed by the government of Canada as necessary and in the national interests. The many Nations who have participated in the Joint Review Panel have stated clearly that national interest cannot and should not trump the rights

of those whose lands and lives are directly impacted here in BC. It is amazing to see the effort that everyone is putting into this issue. Despite suggestions to the contrary, we all know, our efforts are not being funded by foreign interests and we are certainly not "radicals". This May, members of many of our Nations chose to participate in the Yinka Dene Alliance Freedom Train which travelled from BC to the Enbridge shareholders meeting in Toronto on May 9th, 2012. The purpose of the Freedom Train was to spread awareness about impacted First Nation communities. For those that participated I would like to thank you for your personal commitment, energy and effort in highlighting what is arguably the largest single land and resource question facing our Nations, Canada, and BC today. Community hearings for oral statements are currently underway having already taken place in Comox, Klemtu, Smithers, Terrace, and Prince Rupert. Upcoming hearings are scheduled until the end of July and will stop in the following communities: Old Masset, Skidegate, Kitimat, Hartley Bay, Prince George, Burns Lake, Fort St. James, Bella Bella, and Hazelton. For information about the Joint Review Panel process please visit https://gatewaypanel.review-examen.gc.ca. For more information generally please visit https://gatewaypanel.review-examen.gc.ca. For more information generally

The impacts to the Northern Gateway project review process, pending the proposed legislative changes to the *Canadian Environmental Assessment Act* in Bill C-38: *The Budget Implementation Bill*, have yet to be fully articulated by the Government of Canada. We continue to work with national AFN in analysing these changes and we look to provide updates soon.

BC Treaty Process updates:

<u>The Lornie Report:</u> The Treaty process continues. However, there remains uncertainty around its future as progress remains slow. There were expectations that progress would be made through the "Common Table" and in this regard Minister Duncan commissioned Jim Lornie, former mayor of Campbell River, to look into what was going on within the treaty process and to report back to him. In November of last year, Lornie submitted his report and included recommendations regarding the possibility of accelerating negotiations with Common Table. The findings in the Lornie Report represent individual and collective responses collected by him and he comments on the "remarkable similarity and consistency" in responses regardless of which side of the treaty table they came from. Regarding process issues, Lornie reported that respondents were near unanimous in their views as to the reasons for the slowness of progress to date and that all respondents desired these issues be addressed so that meaningful progress to could be made quickly and efficiently. His nine recommendations are as follows:

- 1. Consider re-evaluating the approach to key substantive mandates under discussion at the Common Table, to look for opportunities to address the concerns of First Nations.
- Review and re-evaluate the concerns raised by First Nations regarding the application of the existing Own Source Revenue (OSR) policy, to look for opportunities for flexibility in its application.
- Review aspects of fisheries negotiations that are not implicated by the Cohen Commission of Inquiry into the Decline of Sockeye Salmon on the Fraser River, for opportunities to recommence negotiations (in the context of both comprehensive and incremental treaty agreements).

- 4. Reconfigure the current federal treaty-related decision-making and mandate development process to introduce greater flexibility, efficiency, authority and capability.
- 5. Re-evaluate the negotiations loan funding policy with a view to introducing amendments to the policy, subject to a cost-benefit analysis.
- 6. Engage in tripartite incremental treaty agreements to secure land and resources for First Nations at any stage of the BC treaty process.
- 7. Engage in discussions between the Minister of Aboriginal Affairs and Northern Development and the BC Minister of Aboriginal Relations and Reconciliation to review existing cost-sharing arrangements and commitments.
- 8. Provide resources to support effective dispute avoidance and resolution options for all First Nations affected by potential conflict relating to shared territory and overlap issues arising out of treaties, whether or not those First Nations are participating in the BC treaty process.
- 9. Develop and implement options for engagement in reconciliation measures outside the treaty process with all First Nations.

After some arm-twisting the confidential report was released by the Minister and a copy is available on the BCAFN website.

K'Omoks Agreement in Principle Signing Ceremony: I would like to congratulate K'Omoks First Nation on the signing of their Agreement in Principle (AIP) on March 24th, 2012. I was very pleased to be able to attend the signing ceremony along with 150 elders, guests, and leaders. I would like to thank the coordinators for inviting me to participate in this historic and significant day for the K'Omoks Nation. The AIP sets out a detailed framework for a final treaty with the federal and provincial governments, covering constitutional and self-governance issues; the retention of hunting, fishing and gathering rights; aquaculture and forestry licences; the ownership and maintenance of roads; access to water supplied for future development; and cultural matters. Community support for the AIP was established through a referendum process in March of 2011. Since signing the agreement, the K'Omoks First Nation is one of three First Nations to benefit from pre-treaty early land transfers negotiated in an incremental agreement with the Provincial government. Transfers of two parcels of land, one at the base of Mt. Washington ski area and the other at Union Bay, are underway. As our Nations develop our own critical path to move beyond the *Indian Act*, based on your own priorities, it is especially important that we share information and take the opportunity to build on the experience and work of other Nations.

Conference on Pre-Confederation Treaties: On May 10-11th, 2012 Snuneymuxw First Nation and Vancouver Island University held an important conference on the Pre-Confederation Treaties of Vancouver Island at which I was pleased to participate. This was a very successful session and focused on the challenges of treaty interpretation and implementation. It was clear that we need to continue educating ourselves in order to understand and respect each other's perspectives; in this case what the pre-confederation Douglas treaties mean. We need to continue engaging to resolve our differences, as our lives are very much interconnected. The conference also further highlighted why there needs to be recognition in order to resolve the

uncertainty of Aboriginal title and rights, including treaty rights. Recognition can create the space for relationships to develop and for decisions to be made within our respective territories. I would like to commend Chief Doug White III for generating this important dialogue and I look forward to continuing the conversation.

AFN National Water Forum: The AFN held a National Water Forum at the Marriott River Cree Resort in Enoch, Alberta, March 5-7th, 2012. BCAFN representatives attended the forum, which was a first step towards developing a national AFN strategy on water. Of course, such a strategy is important at this time given Bill S-8: *Safe Drinking Water for First Nations* Legislation. The first day of the forum was focused on First Nation water rights and specifically devoted to understanding the inherent and treaty right to water. The AFN also presented on considerations for developing a national source water protection strategy. This was followed by a two day technical water conference. A draft National First Nations Water Strategy is still being developed with the goal to present and discuss this strategy at the 2012 AFN AGA in Toronto this July.

The Cohen Commission: The Cohen Commission looking into the decline of sockeye salmon in the Fraser River is winding up. In December 2011, planned evidential hearings concluded and the Commission was scheduled to deliver a final report by June this year. The final report is to contain recommendations for improving the future sustainability of the sockeye salmon fishery in the Fraser River, including any required changes to the policies, practices and procedures of Fisheries and Oceans Canada in relation to the management of the Fraser River sockeye salmon fishery. On March 20th, 2012 the Governor in Council granted the Commission a three month extension to complete its work. The final report is now expected by September 30th. In April, the Aquaculture Coalition submitted an application to re-open hearings in light of recently released testing results on locally purchased salmon. This research examined the impacts of piscine reovirus (PRV) and heart and muscle inflammation (HSMI) in BC Salmon. The First Nations Coalition, the Cheam Indian Band, and the Conservation Coalition supported the application but also urged for the final report to be released on schedule. The application was denied based on the Commission's conclusion that the test results on PRV and HSMI was new and inconclusive and would not significantly impact existing findings from hearings on the disease held in August-September 2011 and during the Infectious Salmon Anemia virus (ISAv) hearings in December 2011.

The health and vitality of our salmon fisheries is, of course, incredibly important to our Nations. I will continue to monitor this issue and to work with the First Nation Leadership Council and First Nations' Fisheries Council. For more information regarding the participation of our First Nations in the work of the Commission see the website of the First Nations' Fisheries Council (http://fnfisheriescouncil.ca).

AFN Chiefs' Committee on Claims (CCoC) and Comprehensive Claims Policy (CCP) Working Group—an update:

Additions to Reserve (ATR): As the Co-Chair of the national Chiefs' Committee on Claims, I was pleased to present to the Senate Committee on Aboriginal Peoples regarding Additions to Reserve on April 3rd, 2012. A copy of my presentation can be found on our website. I highlighted both specific and general challenges experienced by First Nations under the current ATR policy and provided the Committee Members with a copy of the AFN's *Additions to Reserve: Regional Dialogue Forums Roll-up Report* that more fully explains the issues. During 2011, the AFN hosted a series of regional dialogue forums on ATR to receive feedback and learn about the challenges that First Nations working on ATR are experiencing. The roll-up report summarizes the issues and challenges that were identified by participants at these forums and includes a series of recommendations that would, it is hoped, be addressed with Canada. A copy of the report has been made available to each of the BC region's participants. If you were not able to attend and would like to receive this report, please contact our office and we will send you a copy. The AFN members of the joint working group with AANDC will continue to report to and receive direction from the Chiefs Committee on Claims and the Chiefs-in-Assembly as this work proceeds.

<u>Specific Claims:</u> In preparation for Canada's 5-year policy review of the *Specific Claims Action Plan: Justice at Last*, the AFN held two Think Tank sessions. The first session was held in Vancouver on February 24th, 2012 and the second on March 15th, 2012, in Ottawa. The AFN has subsequently developed a submission to Canada, based on the feedback received through these sessions. The AFN is encouraging claimants and PTOs to make their own submissions to Canada given the many concerns that were expressed through the Think Tank sessions.

The new Specific Claims Tribunal conducted its first "hearing" in Vancouver on May 30th, 2012. The claim that went ahead was *Osoyoos Indian Band v. Her Majesty The Queen In The Right Of Canada*. The Tribunal will likely address as many claims as possible by selecting claims that would establish precedents in key areas. For this reason, the Tribunal's work in the coming months could impact significantly on Specific Claims in BC and in Canada. I will continue to update you as relevant information becomes available regarding the work of the Tribunal.

Comprehensive Claims Policy Reform: At the First Nations-Crown Gathering in January the AFN tabled the Aboriginal Title & Rights and Comprehensive Claims Policy Reform paper. This paper outlines the inability of the current policy to achieve reconciliation between the pre-existing Aboriginal title of First Nations and the de facto sovereignty of the Crown which causes continued economic and legal uncertainty for First Nations and Canada. It also highlights the need to update Canada's policy framework to reflect current national/international standards in a practical and timely manner. The AFN proposed that the following actions be achieved by July 2012: 1) Convene a senior table with three representatives each from AFN and Canada to oversee reform discussions; 2) Establish a joint working group to set-out issues for a proposed joint framework for policy reform; 3) Based on confirmation of a joint framework, develop recommendations for policy reform for presentation to the senior table; and 4) Confirmation of reform proposal by AFN and Canada.

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." Building on OUR Success

National Panel on First Nations' K-12 Education: The National Panel on First Nations' K-12 Education jointly established by the AFN and Canada released its Final Report on February 8th, 2012. The Final Report was entitled 'Nurturing the Spirit of First Nation Students' and more information about the final report is available at: www.firstnationeducation.ca. On February 27th, 2012, the "Shannen's Dream" NDP motion was supported unanimously in the House of Commons to put First Nations schools on an equal footing with provincial schools. The federal budget was delivered on March 29th, 2012 and committed the government of Canada to introduce legislation, and explore new funding mechanisms for First Nations elementary and secondary education. The budget allocated \$275 million dollars over three years to support First Nations education. These commitments are consistent with the commitment made in the Outcomes Statement at the First Nations-Crown Gathering in January of this year.

BC *Tripartite Education Framework Agreement:* On January 27th, 2012, Canada, British Columbia, and FNESC signed the Tripartite Education Framework Agreement that addresses how existing schools on-reserve are funded.

The Tripartite Agreement does not address the issue of jurisdiction. FNESC and BC First Nations, through the Education Jurisdiction Main Table, continue to negotiate funding with AANDC to support the exercise of First Nation jurisdiction over education in accordance with the BC Education initiative objectives. Unfortunately the issue of Canada's Own Source Revenue policy continues to be a major hurdle. The Education Jurisdiction Main Table includes 54 Interested First Nations that have expressed an interest in pursuing education jurisdiction and 14 Negotiating First Nations that have agreed to negotiate education jurisdiction agreements under this initiative. The fiscal issues being faced by FNESC and the education initiative are the same as those facing self-governing First Nations generally and are being collectively addressed through the BCAFN Fiscal Relations Working Group.

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—Gathering Our Wisdom: Managing the transition to a new First Nations health governance structure remains an important focus for the First Nations' Health Council (FNHC). On May 15-17th, 2012, I was pleased to attend the FNHC's 5th Annual Gathering Our Wisdom for a Shared Journey forum alongside over 800 delegates of Chiefs, health directors, and provincial and federal partners. Building on the signing of the Tripartite Framework Agreement on First Nations Health Governance ("Framework Agreement"), this year's conference continued the discussion around the development of a permanent BC First Nation health authority governance structure. At the conference the chiefs or proxies voted in favor of adopting the Consensus Paper 2012 which defines the standards, timeframes, and accountability measures necessary for the transition to a permanent BC First Nations Health Authority. The Consensus Paper 2012 draws upon the input and feedback collected during regional caucus sessions, where discussions were based around the Navigating the Currents of Change—Transitioning to a New First Nations Health Governance Structure workbook released in January 2012. More information on the Consensus Paper 2012 is available through the FNHC at www.fnhc.ca.

Another significant outcome from *Gathering Our Wisdom* was the signing of the Northern Partnership Accord between the First Nations Health Council: North Regional Health Caucus, the Northern Health Authority, and the Interim First Nations Health Authority. The Accord was established to set a framework for meaningful partnership in respect to the distinct health service challenges faced by many communities in the North.

The journey towards increased control and Nation driven decision-making on matters related to the health of BC First Nations is unprecedented. This work is an important component to overall Nation building or Nation re-building, and the challenges we face will require input and innovation from all levels of leadership. I think we can all be encouraged by the commitment demonstrated thus far, and look forward to continued developments in this new era of health. As I mentioned, though, in my opening comments at the conference, health care is very expensive and we must be mindful of not creating excessive bureaucracy and stay focused to ensure that the most money possible goes to providing the programs and services we truly need in our communities. There will be some difficult decisions to make in the future but I am confident in the knowledge that we will be making them.

Child and Family Caring Society of Canada (FNCFCS) and the Federal Court: In February 2012, the Federal Court heard an appeal from the AFN and the FNCFCS on the earlier decision made by the Canadian Human Rights Tribunal Chair. The Court subsequently decided in favour of the AFN and FNCFCS, on April 18th, 2012, when it ruled that a new Tribunal must occur to examine evidence that First Nations children are being discriminated against because of federal underfunding of child protection services on reserve. This was great news and thanks to Dr. Cindy Blackstock and all those involved for their efforts to get this case to where it is today.

The Government of Canada is now appealing this decision of the Federal Court. Canada's application for appeal of the April 18th, 2012 decision is troubling in that this decision confirmed, for many, that the Government of Canada could be held accountable under the *Canadian Human Rights Act* for ensuring that First Nations people on reserve have fair and equitable access to government services. The BCAFN will continue to update you as events

transpire. More information on the case can be found at FNCFCS <u>www.fncaringsociety.com</u> or at <u>www.afn.ca</u>.

Update on National Aboriginal Justice Strategy: I am pleased to report that as of April 30th, 2012 federal funding for the National Aboriginal Justice Strategy (AJS) was renewed by the federal government. When funding authorities for the AJS expired on March 31st, 2012, First Nations and First Nations organizations across the country were very concerned. The AJS has enabled community-directed programming to both ensure the safety and security of First Nation citizens and also to promote the reintegration of offenders. I am pleased to be able to report that the excellent work of those organizations operating under the AJS will continue.

Gathering Our Voices Youth Conference: On March 20th, 2012 I was pleased to attend the opening ceremonies of this year's Gathering Our Voices (GOV) Conference on the traditional territory of the Snuneymuxw in Nanaimo. Gathering Our Voices is an annual conference for youth aged 14-24 and is hosted by the BC Association of Friendship Centres. This year's theme was "A Generation on the Move". That this generation is a generation on the move was symbolized by the enthusiasm present in a room full of over 1200 registered young people. Participants from all regions of BC took part in workshops and cultural activities focusing on important issues such as health, language, culture, the environment, employment, education, sports and recreation. I would like to congratulate the coordinators of GOV on another successful year and I look forward to seeing the impacts of this generation on the move in our communities.

Truth and Reconciliation Commission, Regional Event, Victoria, BC: On April 13th and 14th, 2012 the BCAFN was honoured to attend the Truth and Reconciliation Commission's (TRC) Regional Event at the Victoria Conference Centre and Fairmont Empress in Victoria, BC. In March of 2012, leading up to the Regional Event, there were four other community hearings in Port Hardy, Campbell River, Port Alberni and Duncan (Cowichan). The hearings provided a space for the Commission to inform the public about the work being done and at the same time gather statements from Residential School Survivors and from any others who may have been impacted or connected to this period in history. The TRC's Regional Event in Victoria included emotional public statements; a selection of film screenings that presented stories of survival and courage; and, also the 'Learning Place' which aimed to further educate those attending. At the 'Learning Place', there were areas where attendees could explore the history of residential schools through photos; the 'Legacy of hope' – a timeline display outlining the entire history of residential schools; representatives of Churches sharing their own materials and dialogue; and a variety of information booths and artist vendors. The event was considered a strong success by the TRC.

Tsartlip First Nations' Welcoming Home Ceremony: On April 27th, the BCAFN sent two representatives to witness a welcoming home ceremony at the Tsartlip First Nations' longhouse. The ceremony was held to welcome fourteen First Nation children to their home community and to celebrate their reconnection with birth and extended family after years in foster care. The youth were transferred from the Ministry of Children and Family to NIŁ/TU,O Child & Family Services Society. The BCAFN would like to thank the NIŁ/TU,O Child & Family Services Society and Tsartlip First Nation for inviting staff to this special occasion. Celebrations

like these are indicators of the great period of change and strength that our Nations are involved in.

PART TWO: OTHER RELATED ACTIVITIES

Musqueam and Marpole Midden-an update: On May 15th I joined National Chief Atleo on a visit to the 'cəsna?əm site, otherwise known as the Marpole Midden, to demonstrate our full support for the Musqueam Nation as they continue to bring public attention to and preserve the ancient Marpole Village—a recognized Canadian Heritage site. The proposed project would see the development of condominiums on the ancient burial grounds. Discussions between the City, Musqueam First Nation, the Province, and developers have yet to result in a decision which will both protect this integral and sacred place and resolve the financial impacts to the couple who hold the fee simple title to the lands in question. We urge the Government of BC to resolve this issue in a way that does not compromise those places where our people are laid to rest. Our Nations have inhabited these lands for thousands of years and although we can appreciate that there is a need for land development, such development must not, and cannot, violate our peoples very being.

United Nations Permanent Forum on Indigenous Issues, New York: The 11th Session of the United Nations Permanent Forum on Indigenous Issues was held at the United Nations Headquarters in New York City, May 7-18th, 2012. The theme of the 11th Session was the Doctrine of Discovery and its enduring impact on Indigenous peoples. The continued impact of this doctrine on First Nations in Canada and BC is relevant to all of our work together in Nation building. I was honoured to be present on the first day of the meetings this year where First Nation Summit, Grand Chief Ed John was elected by acclamation to oversee the 11th session. National Chief Atleo was also present and delivered a joint statement to the Permanent Forum on May 8th, focused on the rights and survival of Indigenous peoples around the world through the eradication of racist and colonial doctrine such as the Doctrine of Discovery.

Audience with His Royal Highness, the Prince of Wales: On May 22nd, 2012, I, along with the National Chief and a delegation of Chiefs met with His Royal Highness the Prince of Wales in Toronto to discuss the First Nation Crown Relationship and to present on the treaty relationship including pre-confederation treaties, numbered treaties and the continuation of treaty-making through modern processes. I had the opportunity to speak to the issues here in BC and the modern treaty making efforts. I stressed that whether or not you have a modern treaty there is a need for reconciliation and agreements. I explained how there were major developments in our territories and that issues of sustainable development were at the forefront on everyone's minds. The Prince, who has just recently released a documentary on sustainable forestry practices, was very familiar with BC as one of the examples used in his documentary was the Great Bear Rain Forest. I explained that sustainability is the issue of our time, and that we as First Nations' peoples are in a period of transition and have an important role to play – our relationships and our sustainable world will be put to the test in the coming years as we seek to renew our relationship with the Crown in right of Canada. The Prince provided the National Chief with the book of his documentary, "Harmony" – a new way of looking at our world

(innovative solutions to global environment / goal of creating a more sustainable, spiritual and harmonious relationship with the planet). I found the Prince very congenial and clearly a supporter of our environmental agenda.

PART THREE: BC ASSEMBLY OF FIRST NATIONS' OPERATIONS

BCAFN Elder Representative:

Chief Robert Joseph Kwakwaka'wakw elder is the Regional Chief's Elder Advisor

BCAFN Youth Council:

Josh August Gottfriedson Tk'emlups te Secwepemc <u>maleyouth@bcafn.ca</u>

Erralyn Thomas Snuneymuxw First Nation <u>femaleyouth@bcafn.ca</u>

BCAFN Board of Directors:

Chief Cheryl Casimer St Mary's Band

Chief Maureen Chapman Skawahlook First Nation
Chief Nelson Leon Adams Lake Indian Band
Councillor Les Sam Tseshaht First Nation

BCAFN Staff: I am pleased to welcome Monika Alexis as our new intern for summer 2012 to the BCAFN team. As many of you know, our Director of Operations, Courtney Daws, is now on a maternity leave. In her absence, please direct any questions or concerns that would normally be sent to Courtney, to Angie Derrickson and Alyssa Melnyk.

Courtney Daws Director of Operations (On maternity leave)

Angie DerricksonPolicy Analystangie.derrickson@bcafn.caAlyssa MelnykPolicy Advisoralyssa.melnyk@bcafn.caCheryl WadhamsReceptionistreception@bcafn.ca

Whitney Morrison Executive Assistant <u>executive.assistant@bcafn.ca</u>

Finance finance@bcafn.ca

Monika Alexis Intern <u>monika.alexis@bcafn.ca</u>

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). We 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@bcafn.ca.

NOTICES

June 28-29, 2012

BCAFN – Special Chiefs' Assembly

River Rock Casino Resort Richmond, BC

KEY DATES:

Room Reservations Deadline – Friday, June 8, 2012 Pre-Registration Deadline - Thursday, June 14, 2012 Proxy Letter Deadline - Thursday, June 14, 2012 Resolution Deadline - Thursday, June 14, 2012

For more detailed information please visit www.bcafn.ca

July 17-19, 2012

AFN - 2012 Annual General Assembly

Metro Convention Centre Toronto, ON

KEY DATES:

Nominations End - Tuesday, June 12, 2012 Resolution Deadline - Friday, June 29, 2012 Pre-Registration deadline - Tuesday, July 3, 2012

Election for the Office of National Chief - Wednesday, July 18, 2012

For proxy forms and other detailed information please visit www.afn.ca

Up to date information can be accessed on our website: www.bcafn.ca.