

BRITISH COLUMBIA ASSEMBLY OF FIRST NATIONS



REGIONAL CHIEF'S QUARTERLY REPORT TO THE CHIEFS OF BC

March 1, 2013

Prepared by
Puglaas
(Jody Wilson-Raybould)
Regional Chief, BCAFN

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 in Three Parts: 4

First Nations Crown Relations:..... 4

Bill S-212 An Act providing for the recognition of self-governing First Nations of Canada (Self-Government Recognition Act):..... 8

Federal Legislative Agenda: 9

Joint Working Group on Fiscal Relations and BC Fiscal Relations Working Group:..... 12

Engagement with the Province: 13

Minister of Aboriginal Affairs and Northern Development Canada: 13

Engagement with Aboriginal Affairs and Northern Development Canada (AANDC) in the BC Region: 14

2. Fair Access to Lands and Resources 14

Enbridge Northern Gateway Pipeline and Major Development Projects: 14

William v. British Columbia, 2012 BCCA 285:..... 15

Federal Comprehensive Claims Policy: 16

AFN Chiefs’ Committee on (Specific) Claims (and Additions to Reserve) (CCoC): 17

Fisheries:..... 18

3. Improved Education 19

Federal First Nations Education Legislation: 19

BC Education Initiative: 20

AFN Consensus Document (Action Item 7—First Nations Schools):..... 21

4. Individual Health..... 21

First Nations Health Authority and First Nations Health Council:..... 22

First Nation Child and Family Caring Society of Canada and the Canadian Human Rights Tribunal: 22

Support and Ongoing Work Related to Aboriginal Women and Girls: 23

Truth and Reconciliation Commission: 25

PART TWO: RELATED ACTIVITIES..... 25

Lower Mainland/Fraser BCAFN Regional Youth Forum: 25

Winter Assembly of Treaty Chiefs, January 29, 2013:..... 26

AFOA 2013 Conference – Relationship Building—Discovering Solutions to Complex Issues:.. 26

Section 35 Forum, February 19-20, 2013, Vancouver:..... 26

PART THREE: BC ASSEMBLY OF FIRST NATIONS’ OPERATIONS 26

BCAFN Staff 27

Information Sharing/Webpage 27

NOTICES..... 28

PART ONE: BUILDING ON OUR SUCCESS - IMPLEMENTING THE PLAN

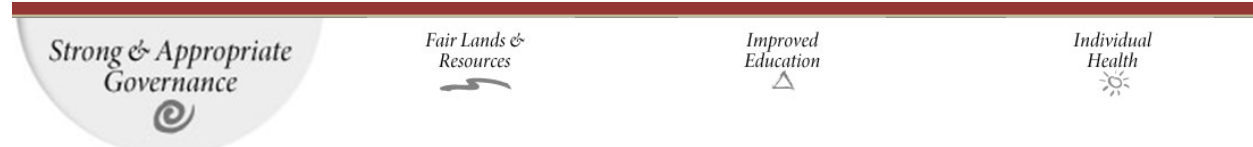
Our focus at the British Columbia Assembly of First Nations (BCAFN) continues with implementation of the *Building on OUR Success* platform as updated in 2012 consisting of four key and interrelated areas that I believe are critical to meeting our shared objective of improving the quality of life of our people and ensuring we have practicing and thriving cultures. These 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 Access to Land and Resources** 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.

With respect to the four key areas, the following remains the basis for the Nation building/re-building Action Plan at the BCAFN:

1. **Understand and identify** the specific priorities for each of our Nations.
2. **Assist** each Nation in charting their own critical path in order to be able to benefit from opportunities, capitalize on success and ensure that the doors are open to move forward with their specific priorities.
3. **Support and facilitate** each Nation in developing and maintaining strong and open relationships with Ottawa and Victoria to ensure that they can advance their own issues directly with the Crown.
4. **Develop and implement** a province-wide participation and communication strategy to maintain networks between Nations and ensure that no single community is left out or behind.

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 in Three Parts: Over the last three years, the BCAFN has developed a Governance Toolkit: A Guide to Nation Building in three parts. The Toolkit draws upon the collective experiences of BC First Nations and wise practices in governance. It was developed to assist our Nations in navigating their way out from under the Indian Act at their own pace and based upon their own priorities. All three parts of the Toolkit (The Governance Report, The Governance Self –Assessment and A Guide to Community Engagement: Navigating Our Way Through the Post-Colonial Door) are available online at www.bcafn.ca for download in full or in part. I am very pleased to hear from so many of you that your Nations are finding the Toolkit useful. We recognize that there have been many changes that have occurred among our Nations since we first published the Governance Report and as such we have begun work on the next edition, along with additional tools. As we did in developing the first edition, we will be calling on the experience and expertise of our Nations to help us. If you have feedback regarding the Toolkit and would like to contribute, or be a part of this work moving forward, please let me know.

First Nations Crown Relations:

Beyond the 2012 First Nations-Crown Gathering: A lot has transpired since my last Quarterly Report with respect to the “Idle No More” movement, Theresa Spence and the hunger strikes, and now the high level engagement taking place with the government through the Prime Minister’s office. Much of this political activity has to do with the fact that very little progress has been made nationally on First Nations’ issues since the First Nations-Crown Gathering held last year. The government of Canada has continued with its own legislative agenda that impacts our citizens and people are simply frustrated.

On January 24, 2012, our leadership from across Canada met with the Prime Minister for a First Nations-Crown Gathering in Ottawa (the “Gathering”). An outcome statement and related joint action plan were released by Canada and the AFN following the Gathering. The joint action plan focused on the following areas: 1) renewed relationship; 2) removing barriers to First Nations governance; 3) advancing claims resolution and treaty implementation; 4) education reform, and; 5) capitalizing on economic development.

As I mentioned in my last Quarterly Report, at the last AFN Special Chiefs’ Assembly (SCA) held in December, 2012 in Gatineau, a special session was held to work on developing a Canada-wide strategy of community mobilization and direct action. This session was held in part due to the frustration our citizens and leadership share regarding the lack of progress to date on the part of Canada in the five areas listed above, and also recognizing that our legal and political environment is continually shifting, evident through new federal legislation, decisions of the courts, and the incredible advancements made by our Nations on the ground. Following direction from the December 2012 AFN SCA, the National Chief together with the national executive on December 16, 2012, wrote an open letter to the Prime Minister. In our letter, we continued to press the Government of Canada and the Prime Minister to engage in good faith and to hold up the Honour of the Crown. A copy of this letter is available on the AFN website at www.afn.ca.

In the wake of the “Idle No More” events and the hunger strike of Theresa Spence, on January 4, 2013, the Prime Minister agreed to attend a January 11, 2013 meeting with a delegation of

First Nations leaders. While there was little time for planning, we hoped that the meeting with the Prime Minister during the day and a second meeting with the Governor General that night, would meet Chief Theresa Spence's requirements and consequently allow her to end her hunger strike and the hunger strikes of Elder Raymond Robinson and Jean Sock. Leading up to the January 11 meeting, the AFN hosted strategy and planning sessions with Treaty and comprehensive claims/inherent rights working groups in Ottawa. During this week in Ottawa, I sent out a number of emails to the Chiefs. I think I have most of you on my email list but if you did not receive the communiqués then please let me know. It is very important that we keep in contact as events such as those that transpired over the past few months evolve since things happen and can change very quickly. I want to take this opportunity to again thank all those who participated in person in Ottawa, or who took the time to join the meetings by conference call or contact me directly to share your thoughts and guidance.

AFN Consensus Document: During our strategy and planning sessions leading up to the January 11 meeting with the Prime Minister, we developed and confirmed the *AFN Consensus Document—Fundamental Change, Remedies and Actions Required Immediately (the “Consensus Document”)*. The Consensus Document set out eight items we would be taking to the Prime Minister. A copy of this document is available on our website. Also on our BCAFN website, you can find my written communication to all BC Chiefs following the meeting with the Prime Minister. I will elaborate further on all of the 8 action items throughout this and future Quarterly Reports, however, they exist in the original document as follows:

1. Treaty relations—Commitment to an immediate high level working process with Treaty Nation leadership for establishing frameworks with necessary mandates for the implementation and enforcement of Treaties on a Treaty by Treaty basis, between the Treaty parties Nation-to-Nation;
2. Comprehensive claims policy—Facilitating fair, expeditious resolution of land claims through reforming the comprehensive claims policy based on recognition and affirmation of inherent rights rather than extinguishment;
3. Resource equity, benefit and revenue sharing – Building on treaty implementation and enforcement and comprehensive claims resolution there must be a framework that addresses shared governance of resource development and the fair sharing of all forms of revenues and benefits generated from resource development;
4. Federal legislative agenda— All legislation must be unquestionably consistent with s.35 of the Canadian Constitution and the UNDRIP. Legislation and provisions of legislation as in C-38 and C-45 that contravene our Treaty and inherent rights must be reconsidered and implementation of these provisions be put to a halt. We must have an environmental regulatory regime in this country that respects our rights. Legislation that tinkers around the edges of the *Indian Act* must stop and be replaced with support for First Nation government and nation re-building including a mechanism for our Nations to push away from the *Indian Act* as they determine. To fulfill the original relationship, Canada must put in place an ongoing process that all new bills and policies of the federal government must be in full compliance with section 35 and consistent with international human rights standards;

5. Fiscal relationship—Fundamentally transformed fiscal relationship guaranteeing fairness and sustainability and removing all arbitrary caps and burdens on the current inefficient, ineffective and unfair funding relationship for First Nation programs and services;
6. National Inquiry on Violence Against Indigenous Women and Girls—Immediate Commitment to the establishment of a National Public Commission of Inquiry on Violence Against Indigenous Women and Girls, including special focus on murdered and missing Indigenous women, and the broader factors that lead to increased vulnerability among Indigenous peoples;
7. First Nations schools—Guarantee, as in Shannen’s dream, of First Nation schools in every First Nation that each and every First Nations parent and child can be proud of, that fully reflects our languages and cultures and provides a safe and supportive place to learn;
8. Machinery of government—In order to be effective, progress on these areas will require fundamental change in the machinery of government including direct political oversight, a dedicated Cabinet Committee with a secretariat within the Privy Council Office with specific responsibility for the First Nation-Crown relationship to oversee implementation.

All eight action items are inter-related and fundamentally linked to questions of “governance.” In fact, all action items with the exception of items 6 and 7, could arguably be placed under “Lands and Resources.”

Meeting with Prime Minister, January 11, 2013: On January 11, 2013 I joined the AFN National Chief, along with other First Nations leaders from across the country in meeting with the Prime Minister in Ottawa. Manitoba, Northwest Territories and Ontario choose not to send representatives. As we listened to the drumming outside of the PMO’s office, the National Chief tabled the AFN Consensus Document with the Prime Minister.

The meeting lasted for about four hours and the Prime Minister responded to each of the eight action items identified in the AFN Consensus Document. Certainly, no one walked away from the meeting shouting “victory”, nonetheless, some movement occurred. I set out later in this report in the relevant sections where this movement occurred. Progress was, made particularly around action items 1 on Treaty relations, 2 on Canada’s comprehensive claims policy, and an agreement to consider machinery of government issues raised in the context of action item 8.

I do want to take this opportunity to thank those of you who stood with us in Ottawa, whether in-person, or through the online and phone support I received. Thanks to Grand Chief Ed John, and Chief Doug White who joined me in Ottawa in supporting our National Chief at the January 11 meeting with the Prime Minister. And thank you to Chief Wilf Adam who attended the planning meetings in Ottawa and the meeting with the Governor General on the evening of January 11. Because of the timing of the meeting and the nature of the meeting as a smaller working meeting, it was not possible for all of our BC leadership to be in the room. However, I thank you all for the support you have shown and continue to demonstrate as it will be so important to moving forward with the work in hand.

Recognizing the need for our BC leadership to engage with one another and strategize together around next steps, work began almost immediately following the January 11 meeting to hold a meeting of all BC Chiefs.

BC Chiefs' Meeting, January 24-25, 2013: On January 24-25, 2013, the First Nations Leadership Council brought us all together to discuss the January meetings held in Ottawa, to dialogue around the *AFN Consensus Document* and to provide an opportunity for our leadership in BC to continue strategizing on how to move forward collectively. Gwaans (Beverley Clifton-Percival) was asked to chair this meeting. The official summary report from this meeting is available online at www.bcafn.ca and a hard copy has been sent to all BC First Nations.

On the morning of January 24, we all honoured National Chief Shawn (A-in-chut) Atleo and his wife Nancy, and took time to express our appreciation for his leadership, particularly during the politically challenging times over the last number of months. It was his first public meeting since taking a brief period of time off to look after his health. I was pleased that my colleague on the national executive, Regional Chief Roger Augustine (NB/PEI), was able to participate in the honouring and in discussions throughout the course of the day. Following the honouring, open discussions commenced and a resolution was unanimously passed supporting the *AFN Consensus Document*. This resolution was further supported by a BC Chiefs' Declaration, entitled "*Driving Change for Our Children*" that was signed by those in attendance. Both the resolution and the declaration are available on our website. Some of you who were not able to attend the meeting have expressed a desire to also sign onto the declaration. To accommodate this request, the declaration will be available for signing at our next BCAFN Special Chiefs' Assembly, April 4-5, 2013 in Vancouver.

During the afternoon of January 24, the Chiefs and leadership present also called for and endorsed a second Declaration entitled "*Support for Indigenous Citizens' Actions on Sovereignty and Environmental Protections*". A copy of this declaration, in support of our citizens who are rising up through the Idle No More movement and through their own initiatives and activities across the province, is also available on our website.

For me, Idle No More is really about our Citizens taking back responsibility for their own future and engaging in those hard discussions about moving beyond the *Indian Act*. I do not see Idle No More as simply a protest movement of the disaffected who are angry at the federal government and in some cases at their own First Nation government, but rather as a powerful message from our citizens who are engaging in significant numbers and who want to rebuild; the true 'grass roots' whose voices are often and for too long have been ignored or overpowered. Basically, the voices of our neighbours back home, or perhaps the person who moved away from home because they did not like the local politics. Or the woman who was not welcome because she married a non-native and was no longer considered an Indian.

I think, though, if Idle No More is to have a lasting influence, achieve tangible results and be an effective movement for change its focus will need to shift more clearly from simply protesting government action to actually rebuilding our Nations. While there is still momentum, we need to harness this moment and the energy of our people and support the hard work we all know needs to be undertaken back home. We need to embrace the call for change and build on it by

focussing the energy where it is needed most, back home and on Nation rebuilding. This is, of course, what the BCAFN Action Plan and *Building on Our Success* are all about; and why the tools in Part Three of the Governance Toolkit, “*A Guide to Community Engagement*” were developed.

Since the meeting on January 11 and our BC Chiefs’ Meeting on January 24-25, 2013, the national AFN has circulated a discussion paper around the AFN Consensus Document and the January 11 meeting. This discussion paper outlines outcomes and possible next steps and I sent this document to all BC Chiefs on January 30, 2013. The document is also available on our website at www.bcafn.ca. The National Chief and the entire AFN executive continue to welcome feedback on this discussion paper and next steps. Specific actions and activities are already underway in many of the areas and are discussed below in this Quarterly Report.

Bill S-212 An Act providing for the recognition of self-governing First Nations of Canada (Self-Government Recognition Act): At the January 11 meeting between the Prime Minister and First Nations leadership, the Prime Minister, in response to the concerns we expressed with Canada’s current legislative agenda and speaking about the Indian Act, stated that “we all agree that it (the Indian Act) is flawed but that no one knows how they want to get rid of it all or change it.” He said that he was “open to suggestions on how to do this” and he invited solutions. In BC, we continue to maintain that First Nations do have solutions to moving beyond the Indian Act and we are already doing so in many different ways. Bill S-212 is one of these First Nations solutions and is an option some of our Nations would use. As I have reported previously, on November 1, 2012, private member’s Bill S-212 was introduced by Senator St. Germain just days before his retirement. The bill provides a mechanism for a First Nation to become recognized as self-governing under its own constitution. Where, at their choice, a First Nation, or group of First Nations, develops its own constitution as part of a self-government proposal that has been ratified by its citizens, Canada would be required legally to recognize that Nation or Nations as self-governing. Following recognition, Canada would be required to enter into inter-governmental negotiations with respect to that Nation’s law-making powers and a new fiscal relationship. This bill has already begun to generate much needed dialogue and debate around the importance of reconciliation and for First Nations to be recognized as self-governing based on our inherent right to self-government. However, we must be cautious and recognize that developing such legislation is no small undertaking as it is fundamentally about returning to the Nation-to-Nation relationship between our peoples and the Crown. Therefore, although conceptually sound, Bill S-212 should in no way be considered as existing in its final form, as it will need amendments.

Because Bill S-212 is not a government sponsored bill, we have a lot of work to do if we want to see it ever become law. Indeed, drafting and proposing possible amendments, and seeing the legislation through the process of becoming law will be incredibly challenging. Also, though we have not been confronted with it directly yet, I expect there may be opposition from some First Nations for any number of political or legal reasons that we will need to address. Nevertheless, our Nation building and rebuilding activities together here in BC have me convinced that Bill S-212 is a step in the right direction and something BC First Nations can be proud to have been leading.

Since Bill S-212 was introduced in November, I have begun working in Ottawa to raise awareness of the Bill and to seek more support for it among the Senate and the House of Commons. The greatest work, however, will be to ensure that our brothers and sisters across Canada are also fully aware of what the bill does and does not do, so they can get behind it as well. In regards to furthering the development of the Bill, if you have any comments or suggestions, please do not hesitate to contact me. Similarly, if your Nation feels it may want to be recognized under the proposed Act, please let me know. I am developing a provisional list of First Nations to get an idea of the total numbers of First Nations that might want to become self-governing as soon as possible and if ultimately Bill S-212 becomes law.

Federal Legislative Agenda: Despite having our own solutions, and our Nation building and re-building being a collective priority among our Nations, the government of Canada continues to introduce and enact legislation that impacts on aspects of First Nations' governance and our Aboriginal rights including treaty rights without our involvement. Canada continues to follow a legislative agenda that, if unchallenged, could override First Nations' jurisdiction and continue to impose on us governance structures based on federal policy direction. It is for this reason that our leadership present at the January 11, 2013 meeting with the Prime Minister made it a priority to raise action item number 4 from the AFN Consensus Document in regards to our concerns over the current federal legislative agenda and, more specifically, we urged that all federal legislation must be unquestionably consistent with s.35 of the Canadian Constitution and the United Nations Declaration on the Rights of Indigenous Peoples. On the National stage, the National Chief, and myself along with other members of the AFN executive have advocated our Nation building agenda in committee as various bills have made their way, or are making their way, through Parliament. Unfortunately, very few of our submissions to this point have resulted in amendments to government sponsored bills, and our options for legislative reform have not been taken seriously. This is not acceptable. I will continue to update you on actions taken nationally to address the federal legislative agenda, and continue to look to our BC Chiefs for your leadership in developing First Nations solutions that we can bring forward. Below is a brief summary of current activities around specific legislation. The national AFN also provides weekly parliamentary updates that are available at www.afn.ca.

Bill C- 27: First Nation Financial Transparency Act: This is a government bill. Bill C-27, *An Act to enhance the financial accountability and transparency of First Nations* has been passed in the House of Commons and passed second reading in the Senate on December 13, 2012 and is currently under study by the Senate Committee on Aboriginal Peoples. I will be presenting to the Senate Committee on Tuesday, March 5, 2013. As discussed in previous quarterly reports, if passed, the new act would require Chiefs and Councils to disclose their organizational salaries and expenses as well as disclose financial information about corporate entities controlled by the Nation. While, of course, we do not oppose transparent and accountable practices; it is important that we establish our own accountability regimes and that any legislation reflect the existing processes that many of our Nations have and continue to practice to inform their citizens as well as recognize our jurisdiction in this area. These matters are covered more properly in Bill S-212, the proposed First Nations' self-government recognition act. In October last year, I was able to present to the Common's committee regarding Bill C-27. The transcripts for that presentation are available on the national AFN website, www.afn.ca.

Bill C-45: Jobs and Growth Act: The *Jobs and Growth Act* received royal assent on December 14, 2012. First Nations in BC and in Canada did not have the opportunity for engagement in the development of this Act, and as such the legislation is more evidence of Canada's disregard to Crown obligations for consultation and accommodation. Now law, the act has become the subject of much focus and criticism, both through the Idle No More movement and our efforts as First Nations leaders to combat unilaterally developed federal legislation. The Act was introduced as a second "omnibus bill" in 2012 and now provides for implementation of further provisions of the March 29, 2012 budget. The act contains amendments to the *Indian Act* regarding land designation, changes to the *Fisheries Act*, and technical changes to the *Canadian Environmental Assessment Act, 2012*, as well as amendments to the *Navigable Waters Protection Act* and the *Canada Labour Code*. Despite the *Jobs and Growth Act* becoming law, I will continue to look for opportunities in partnership with our National Chief to express our First Nations opposition to the inclusion of amendments to other legislation in omnibus budget legislation and press for amendments of our own. However, the Prime Minister during our meeting on January 11 was not at all receptive to the idea of opening up this act, considered a cornerstone to his administration.

Bill C-428: An Act to Amend the Indian Act (publication of by-laws) and to Provide for its Replacement: This private members bill passed second reading on December 5, 2012 and has been referred for study to the Standing Committee on Aboriginal Affairs and Northern Development. This is a short bill that started off as a private members bill that seeks to make changes to the *Indian Act*, which, although relatively minor, are not optional. It addresses matters that are also covered from the perspective of "recognition", under S-212, the proposed First Nations' self-government recognition act. As I have noted in previous quarterly reports, Bill C-428 is in no way connected to BCAFN's work on S-212. The national AFN has noted that the bill sets out in its preamble a commitment to develop new legislation to replace the *Indian Act* and to continue work in "exploring creative options for the development of this new legislation in collaboration with the First Nations organizations that have demonstrated an interest in this work." I will continue to update you as more information and analysis on this bill becomes available.

Bill C-469: Declaration on the Rights of Indigenous Peoples Act: Bill C-469, another private members bill, was introduced on January 28, 2013 by Romeo Saganash (NDP MP, Abitibi – Baie-James – Nunavik – Eeyou). The bill requires the Government of Canada to take all measures necessary to ensure that the laws of Canada are consistent with the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), and further that the Minister of Aboriginal Affairs and Northern Development Canada (AANDC) must prepare an annual report to Parliament for the next four years reviewing progress in terms of the implementation of this law. The national NDP have suggested this bill is indeed intended to harmonize Canadian laws with the UNDRIP, and have been united, as the official opposition, in their support for this legislation.

Bill S-2: Family Homes on Reserves and Matrimonial Interests or Rights Act: This is a government bill. First introduced in the fall of 2011, Bill S-2 completed a review by the Senate Standing Committee on Human Rights, tabled on November 29, 2011 with two amendments and observations on the importance of ensuring First Nations have the needed support and capacity to create their own laws on matrimonial real property (MRP). MRP and land

management are matters over which First Nation's jurisdiction should be recognized where our Nations so desire. They are matters covered more properly by Bill S-212, the proposed First Nations' self-government recognition act. Our Nations have repeatedly called on the government to work with us on an approach to ensure our citizens' get access to justice. Despite changes to previous versions of the bill, the bill is largely viewed as being insufficient in providing the necessary tools and capacity to access justice or to address underlying issues. Particularly issues such as housing shortages, family violence and the need for community-based dispute resolution mechanisms. The national AFN continues to encourage First Nations to work with our citizens to enact our own laws or codes in this area in advance of this bill coming into force. A template for First Nations MRP law is available to support this work. There are already 18 First Nations that have developed MRP laws. For more information see the national AFN website (www.afn.ca) and also the relevant section on the BCAFN Toolkit on matrimonial property.

Bill S-6: First Nations Elections Act: Bill S-6 is opt-in legislation for First Nations who conduct their elections under the *Indian Act* and was introduced at first reading in the House of Commons in Spring 2012 and while it had been anticipated that debates at second reading would begin in mid-December, 2012, this did not occur, and the bill is not currently scheduled for second reading. As I have reported previously, Bill S-6 is legislation resulting from initiatives of the Atlantic Policy Congress of First Nation Chiefs and the Assembly of Manitoba Chiefs and extends the election term under the *Indian Act* from two to four years; has provisions for a recall mechanism; elections can be contested in a court; and, sets-out offences and penalties in relation to the election of a chief or councillor. Concerns continue to be expressed around provisions in this bill that would empower the Minister of AANDC to order a First Nation to become scheduled to the Act, including a First Nation that conducts custom elections under the *Indian Act* in the event of a dispute or an election overturned by the Governor-in-Council. Of final note, the legislation does include opt-out provisions for a First Nation transitioning to custom codes. The matters covered in this Bill are all matters that a recognised First Nation under S-212, the proposed First Nations' self-government recognition act, would have jurisdiction over in accordance with its own Constitution and laws.

Bill S-8: Safe Drinking Water for First Nations Legislation: This is a government bill. Bill S-8 is still in second reading and underwent debates at second reading on November 1, 2012 and again on November 22, 2012. It is anticipated that the bill will go to committee shortly. While minor changes were made to the bill in committee last year, the consensus remains that adequate consultation is required in the development of regulations which could impact the decision-making authority of First Nations in respect to water governance. In particular, special attention is required to ensure that any regulatory regime does not impede on the pre-existing best practices of our Nations that are leading the way in terms of providing safe drinking water to our citizens. Of great concern is that the bill would set standards without ensuring adequate resources for First Nations to meet those standards and govern their water systems. There are huge capacity concerns. The AFN will present again when this bill goes back to committee for review and I want to thank those Nations in BC who have continued to share their own concerns and analysis with regards to this legislation. Again, the subject matter of this bill, is addressed from the perspective of recognition under Bill S-212, the proposed First Nations' self-government recognition act that was discussed above.

Bill S-207: Act to Amend the Interpretation Act (Non-Derogation of Aboriginal and Treaty Rights): Bill S-207 was introduced by Senator Charlie Watt in the winter of 2011 and completed second reading in June 2012. This is also a private members bill. The intent of the bill is to propose an amendment to the *Interpretation Act* (a law which governs all other federal laws with respect to general “interpretation”) which stipulates the following: “No enactment shall be construed so as to abrogate or derogate from the aboriginal and treaty rights of the aboriginal peoples of Canada that are recognized and affirmed by section 35 of the *Constitution Act, 1982.*” Bill S-207 remains under study by the Standing Senate Committee on Legal and Constitutional Affairs. This is an important bill that requires further study.

Joint Working Group on Fiscal Relations and BC Fiscal Relations Working Group: One of the most important commitments at the 2012 First Nations-Crown Gathering was the acknowledgment by the federal government that First Nations require a “new fiscal relationship” with Canada. As a result of this FNCG commitment, a Joint Working Group on Fiscal Relations (JWGFR) was established and met twice in 2012. The majority of discussions at the JWGFR focused on: 1) Developing a set of core principles to guide joint discussions between First Nations and the Government of Canada that ensure any new fiscal relationship is grounded in equity, fairness and security, stability, predictability, accountability, autonomy, flexibility and access to capital, and; 2) Identifying the existing range of funding mechanisms between First Nations and the federal government and where they fall short of these core financing principles.

The JWGFR has not delivered in year one on all its promises. During the meeting with the Prime Minister on January 11, 2013, I joined the AFN National Chief and other First Nations leadership from across Canada in renewing the commitment to continue the important work to, among other things, create a new fiscal relationship between First Nations and Canada. Specifically, the National Chief, following the AFN Consensus Document (action item #5) spoke to the Prime Minister about the need for a transformed fiscal relationship, guaranteeing fairness and sustainability and removing all arbitrary caps and burdens on the funding relationship for First Nations.

I continue to believe that the leadership and experience of our BC First Nations will be critical in moving forward with Canada towards transforming the existing fiscal relationship. Following the direction of our Chiefs, as mandated by *Resolution 06b/2011*, the BC First Nations Fiscal Relations Working Group (FRWG) was re-established in 2011. The focus of the FRWG to date has been on issues of “own source revenue” and responding to Canada’s desire at “harmonization” of financial transfer agreements for self-governing First Nations. In late 2012, a number of First Nations met with Director General Perry Billingsley, AANDC, in Tsawwassen as a first step in reviving discussions and moving forward. The BCAFN will continue to assist in coordinating next steps, which include the possibility of a joint table and approaching AANDC with a BC First Nation’s proposal that will promote better dialogue across our region. In addition, through my involvement with national working groups such as the aforementioned JWGFR, and through ongoing discussions with Canada following the January 11 meeting, I am hopeful that BC First Nations’ leadership can become even more involved in broader discussions and plans aimed at transforming the fiscal relationship. As an example, Bill 212, the

proposed self-government recognition act, would require the government to enter into a new fiscal relationship with a self-governing First Nation in accordance with certain principles and conditions set out in the bill.

If your Nation is interested in being added to the distribution list for this FRWG or if you would like more information please contact me directly at regionalchief@bcafn.ca or 604-922-7733.

Engagement with the Province: On January 17, 2013, the First Nations Leadership Council met with Premier Christy Clark at her offices in Vancouver. During that meeting, Premier Clark shared with us her thoughts about how she sees BC as a leader in terms of revenue sharing with First Nations. The Premier described herself as a champion of revenue sharing at the recent “Council of the Federation” meetings, and reflected on revenue sharing as key to unlocking economic development opportunities in the province. At this meeting we also talked to the Premier about the 8 Action items identified in the AFN Consensus Document, and we had the opportunity to table the document with the Premier.

As you all know, the Provincial writ will drop later this spring, on April 16, signalling the beginning of the official election campaign period for the BC provincial government and culminating in the BC Election in May. Our fiscal relationship with the Province, which includes revenue sharing in the case of some of our Nations, is key to our ongoing efforts at Nation building and rebuilding and directly connected to our work at the national level. At the January 11 meeting in Ottawa, the Prime Minister in response to issue item #4, noted the importance that resource sharing represents to First Nations and our economies. He indicated the need for provinces and territories to be engaged in the dialogue.

Regardless of the outcome of the 2013 provincial election here in BC, moving forward on the possibilities for revenue sharing is critical to building on the current momentum. I have suggested, although the take up so far has been luke warm, holding a First Ministers meeting on Aboriginal issues where revenue sharing is front and centre as part of a renewed conversation about support for our Nation building agenda and for our peoples well-being.

Minister of Aboriginal Affairs and Northern Development Canada: On February 22, 2013, Bernard Valcourt, Member of Parliament for Madawaska-Restigouche (New Brunswick), replaced John Duncan, Member of Parliament for Vancouver Island North as Minister of Aboriginal Affairs and Northern Development Canada (AANDC). The announcement came after John Duncan announced on February 15, 2013, that he was resigning as Minister after inappropriately contacting the Tax Court on behalf of a constituent. I believe that former Minister Duncan took appropriate action in resigning and I continue to wish Mr. Duncan well and thank him for his service as Minister. In looking forward, the new Minister for AANDC will have a considerable amount of work to do to meet the collective demands of our peoples, and indeed all Canadians. The expectations with respect to making progress on First Nation issues have grown and it is no longer acceptable for progress to be so elusive or marginal. Our current reality and the events of the last few months demand that Minister Valcourt demonstrate a strong presence in cabinet and with the public. First Nation leaders are working hard to address the cries for change heard through the ‘Idle No More’ movement and also the criticisms that have been levied at the federal government, and at our own governments as well and we will


be looking for Minister Valcourt to partner with us, to roll up his sleeves, and to join us in the hard work to develop and implement solutions.

Engagement with Aboriginal Affairs and Northern Development Canada (AANDC) in the BC Region:

On February 8, 2013 the First Nations Leadership Council met with Regional Director General for AANDC, Eric Magnuson and a few members of his staff. At this meeting we discussed last February's Joint Gathering that brought together Chiefs and AANDC BC Region staff and provincial officials for 3 days of meetings in Vancouver. The Joint Gathering proved a successful way to share information and provide feedback and suggestions to AANDC BC Region staff on policy and programs. AANDC BC Region has drafted a Joint Gathering Progress Report and have asked for Leadership Council input. We briefly discussed the idea of holding another Joint Gathering in the fall and agreed that this would be beneficial for the First Nations in British Columbia. Preparations will start taking place to look at the possibility and logistics of holding this session in late September or early October 2013.

2. Fair Access to Lands and Resources

Strong & Appropriate
Governance


Fair Lands &
Resources


Improved
Education


Individual
Health


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

Enbridge Northern Gateway Pipeline and Major Development Projects: The Joint Review Panel (JRP) on the Northern Gateway Pipeline recently held community hearings in Vancouver, Victoria, and Kelowna. Many of our citizens turned out to participate both inside and outside of these hearings in opposition to the pipeline. The JRP will resume final hearings for the questioning phase in Prince Rupert on February 18 and conclude in May 2013. We expect the final report of the Joint Review Panel in December 2013. Ongoing JRP updates are available at <http://gatewaypanel.review-examen.gc.ca>. The BCAFN, Union of BC Indian Chiefs, and First Nations Summit continue to monitor these developments and will provide updates as new information becomes available.

There is no doubt that the proposed major industrial development projects in our territories, combined with the legislative changes made through Bill C-45 to the environmental protection regimes in Canada, have been sparks igniting our citizens who are involvement in the Idle No More movement. Whether projects such as the Northern Gateway Pipeline and the Kinder Morgan pipelines projects should proceed, poses serious questions that confront not just our citizens but the country as a whole. The majority of First Nations in BC do not support the proposed major development projects in BC and in particular Northern Gateway. Our communities will continue to define what sustainable development means to our people and

how to collectively address the federal legislative agenda in which sustainability receives less priority. In the face of growing frustration amongst our citizens and demands by our leadership, new mechanisms are needed to address our title and rights and the need for those rights to be recognized and acted upon in accordance with the common law and the United Nations Declaration on the Rights of Indigenous Peoples. These matters were, of course, front and center at the January 11, 2013 meeting with the Prime Minister in Ottawa.

A number of the eight action items in the AFN Consensus Document, relate directly or indirectly to major development projects. First and foremost are items 1, 2 and 8 dealing with Treaty rights, the federal comprehensive claims policy and the call for new machinery of government. For Nations with treaties, proposed major industrial development projects must respect the treaties, and for Nations without treaties, these projects must respect the title and rights of those Nations, the Crown must act appropriately where there is a presumption of Aboriginal title. Additionally, item 4 of the AFN Consensus Document demands that all federal legislation respect both section 35 of the *Constitution Act* and the fundamental principles of UNDRIP, including legislation such as Bill C-38 and Bill C-45 addressing aspects of regulation related directly or indirectly to the approval process for major development projects. Projects cannot proceed without our free, prior and informed consent. Finally, action item 3, and the need to design a resource revenue sharing framework for our Nations, as discussed previously in this report. This work will require that the Province be at the table. Many of our Nations see opportunities in sustainable resource development to support much needed economic development for their Nation and to support their citizens. As we move forward with the discussion on the 8 action items through the Prime Minister's office, our objective with respect to major development projects is to ensure that the proper role of First Nations in the approval processes for development is respected, that First Nations' voices are heard based on the recognition of our Aboriginal title and rights, including treaty rights, and that where projects are acceptable to our Nations the Nations benefit significantly from those projects.

William v. British Columbia, 2012 BCCA 285: In June, 2012 the BC Court of Appeal released their decision in *William v. British Columbia*, upholding the trial judge's findings with respect to the Tsilhqot'in peoples' Aboriginal rights within their territory, and concluded with respect to Aboriginal title that title is not throughout the whole territory but limited to areas of more intensive use historically (village sites, salt licks, fishing rocks, farm lands etc.). Following this decision, Tsilhqot'in filed an application for leave to appeal to the Supreme Court of Canada for which I was pleased to prepare an affidavit in support of the application. At the AFN Special Chiefs' Assembly on December 4-6, 2012 the Chiefs in Assembly passed resolution 74-2012 which called for the rejection of the BC Court of Appeal decision in *William* and called on Canada and BC to "respect and recognize the legitimacy of Indigenous laws, governance and systems of land use and occupation and to refrain from making any arguments in court based on the racist theories of terra nullius and discovery". On January 24, 2013, the Supreme Court of Canada granted the Tsilhqot'in leave and the case is expected to be heard in November 2013. This is an important case and will impact all our Nations with unextinguished Aboriginal title and rights. It is expected that collectively First Nations, either through the AFN or some other body, will intervene in the case and your thoughts on how best to proceed are most welcome. I would also like to hear from you if your Nation is intending on intervening as we

look to coordinate our strategy. The BCAFN's involvement will be guided by the Legal/Political Strategy adopted by the Chiefs in Assembly last year.

Federal Comprehensive Claims Policy: To address un-extinguished Aboriginal title and other rights Canada has adopted policies to negotiate settlements, including negotiating modern treaties. These policies are collectively referred to as the "comprehensive claims policy" (CCP) and it is the view of many First Nations in BC and indeed across Canada that fair, just and lasting settlements are not possible under the existing CCP, which is outdated and not reflective of the current state of the common law.

The need for fundamental change to the federal comprehensive claims policy was a position taken forward to the First Nations-Crown Gathering in 2012, at which time our leadership tabled a clear statement of comprehensive claims policy reform requirements. At the January 11, 2013 meeting with the Prime Minister this matter was expressed as a matter of critical concern as action item 2 of the AFN Consensus Document:

Facilitating fair, expeditious resolution of land claims through reforming the comprehensive claims policy based on recognition and affirmation of inherent rights rather than extinguishment.

During the meeting on January 11, 2013, the Prime Minister acknowledged the lack of movement on CCP as unacceptable and committed to establishing a joint high level mechanism to reform the CCP, a mechanism where the Prime Minister's Office would provide more oversight and, it is hoped, significant movement. Work has begun to develop this mechanism. Early planning suggests it may be similar to the process used to examine and reform the Specific Claims policy. Thus far, the intention is that there be developed a focused working group with representatives from First Nations and from Canada including the Prime Minister's Office to determine common ground for reform. The expectation that we have communicated to the Prime Minister's Office is that the work be concluded within a short time period of 3-4 months and that the outcomes be jointly considered by respective decision-making processes. Many of the details are still being worked out, and I look forward to being able to report back to you and seek your feedback as this work proceeds.

Leading up to the January 11, 2013 meeting, the Comprehensive Claims Working Group (CCPWG) met and identified/reconfirmed a set of six key issues that should be part of CCP reform. Briefly, these were: 1) fiscal arrangements; 2) shared territory; 3) recognition and reconciliation; 4) the status of lands; 5) self-government; and, 6) certainty. Further, based on work completed by the CCPWG, it was determined that any "high level" process to reform the CCP should:

1. Be based on the principles of recognition and reconciliation, rather than extinguishment. As a result, Canada must unequivocally reject the doctrines of terra nullius and discovery as a basis for engaging First Nations in any forum;

2. Respect the differences between First Nations, their interests and aspirations – the policy cannot be one size fits all, therefore it cannot be based on pre-determined outcomes, formulas, or unilateral impositions by Canada;
3. Be jointly developed and implemented subject to the approval of First Nations themselves – as a result, Canada’s purported “results-based” approach to treaty and self-government negotiations must be rescinded;
4. Provide the ability for all First Nations to pursue the negotiation of modern treaty and self-government arrangements, including the ability to negotiate interim measures/arrangements;
5. Accept that the Crown’s policies/processes must remain consistent with the Common/Civil/Indigenous Law (including case law arising from *Haida*, *Delgamuukw*, etc.), international human rights law, and the Constitution;
6. Lead to the unequivocal recognition of First Nations title on the ground in a manner that does not lead to “postage stamp” parcels of land.

On February 11-12, 2013, the CCP Working Group met in Ottawa to review developments since the last meeting leading up to the meeting with the Prime Minister on January 8th 2013, which included: (a) the statement developed at the January 8th CCPWG meeting; (b) January 11th 2013, AFN Consensus Document on “Fundamental Change, Remedies and Actions Required Immediately”; and (c) update on follow-up work and engagement with the Crown.

AFN Chiefs’ Committee on (Specific) Claims (and Additions to Reserve) (CCoC): On December 3, 2012 a CCoC was held in Ottawa where there was: 1) an update on progress being made by the Joint Working Group (AFN and Canada) on amending the Additions to Reserve policy, 2) discussion on the specific claims 5-Year Review of “Justice at Last,” and 3) discussion on AFN Resolution No. 32-2012 (Challenging Canada’s “Surrender” Requirement in Settlement Agreements). The last CCoC meeting was held on March 4, 2013 in Toronto, where there was: 1) a further update on progress on the Additions to Reserve policy, 2) a discussion around ‘Landless Bands’ or First Nations that are seeking band or reserve status, and, finally, 3) a presentation on ‘Patented Lands,’ from a First Nation perspective, examining many of the difficulties in the negotiation of specific claims settlements caused by the presence of private property interests. A National Specific Claims Gathering was then held on March 5th 2013 in Toronto.

Additions to Reserve (ATR):

Based on national AFN Resolution 26-2012, the Joint Working Group (JWG) continues to work on reforming Canada’s ATR policy. This work includes: 1) creating a new ATR category for positive “Tribunal Decisions” to re-acquire or replace lands, 2) expanding the approach to “Community Additions” to ensure proposals are considered on their merits, placing an onus on Canada to justify non-approval, and 3) the collapse of “New Reserve / Other” category into “Legal Obligations” creating a more transparent policy and process (e.g., landless band ATRs rarely succeed).

As I have reported previously, in late 2012, the Standing Senate Committee on Aboriginal Peoples released a report entitled “Additions to Reserve: Expediting the Process”. This report examined ATR policies and practices, with particular focus on AANDC management practices, both nationally and within regional offices. The report made specific recommendations around an “ATR action plan” and improvements to ATR process, including the following Committee recommendations:

That the Department of Aboriginal Affairs and Northern Development Canada, in collaboration with First Nations through the Joint Working Group, develop and table an action plan before the Committee by 31 March 2013 that establishes clear targets and timelines for implementing agreed upon measures to improve the existing ATR process, and clearly identifies and provides options for resolving areas within the ATR process causing the greatest delays, including legislative or policy options relating to:

- *Pre-reserve designations and/or recognition of interests for lands identified by First Nations for conversion to reserve status;*
- *Support mechanisms, including dispute resolution assistance, to First Nations in their negotiations with municipalities and third parties;*
- *Identifying best practices and implementing measures to prevent predatory pricing strategies of third-party landowners on the sale of privately held land to First Nations; and*
- *Streamlining the procedural requirements in relation to the federal ATR policy, including implementing recommendations from the OAG on improving management systems.*

The revised draft policy has been reviewed by the CCoC and we expect further information and will continue to report back on the progress made with Canada at the Joint Working Group.

Specific Claims

Many First Nations that are dealing with Specific Claims have expressed deep dissatisfaction about Canada’s conduct over the past several years. On March 5th, 2013, the AFN held a Specific Claims Gathering in Toronto at the Toronto Airport Marriott Hotel. For more information about this event, please contact Sharon Slippery at the national AFN office at 613-241-5808 or by email at sslippery@afn.ca. The meeting brought various practitioners and First Nations together for a review of what has been happening and to develop input for the 5-year legislative review.

Fisheries: Canada’s current legislative agenda continues to threaten the health and vitality of our wild fish stocks and presents considerable questions and challenges to First Nations in the area of fisheries. In BC, in 2012, the First Nations Leadership Council, working together with the First Nations Fisheries Council, met with the Minister of Fisheries and Oceans on two occasions to discuss First Nations’ concerns around fisheries. One of the objectives of the Leadership Council in meeting with DFO was to follow up on an earlier commitment from the Minister to enter into a Memorandum of Understanding with the Leadership Council as directed by

resolution of the Chiefs. The MOU is intended to ensure high-level engagement, that our shared issues are addressed, and also to achieve concrete outcomes that are mutually beneficial. On February 18, 2013, the Leadership Council contacted the Minister to express our concern that an agreement regarding the desired MOU had not yet taken place. I remain hopeful that the DFO will respond and reaffirm commitment to this high level MOU and I will continue to update you on this initiative.

During the AFN's Special Chiefs' Assembly in December 2012, a National Fisheries Strategy Development session was held in Gatineau, Quebec. The fisheries session in Gatineau was a good opportunity to continue discussions around a national strategy. As I reported in my last quarterly report, in BC, the First Nations Fisheries Council (FNFC) held its Fall Assembly in November 2012, and based on the proceedings at that meeting the FNFC worked with the national AFN's Environmental Stewardship Unit and many of our BC First Nations in the development of a large number of resolutions that came forward at the AFN December Special Chiefs Assembly. The resolutions relating to fisheries highlight your concerns and also the opportunities that exist.

Nuu-chah-nulth Fishing Rights Reconsideration Hearings: Earlier this month in Vancouver, five Nuu-chah-nulth Nations were back at the B.C. Court of Appeal (BCCA) defending their Aboriginal rights to economic fisheries. This is the second time this case has been heard by the BCCA. The original 2009 trial decision finding that five Nuu-chah-nulth Nations have Aboriginal rights to fish and sell fish has already been upheld once by the BCCA, however, Canada appealed that decision to the Supreme Court of Canada, who subsequently sent the case back to the BCCA to reconsider their decision in light of the Lax Kw'alaams Decision of the Supreme Court. Those attending the hearings this month, including a Nuu-chah-nulth delegation and AFN observers have commented that, despite Canada's insistence that they would not reargue the findings of the original trial, they heard largely the same arguments from the Crown. It is worth noting that intervenors from the Saugeen and Chippewa Nations from Ontario were new to the case for this hearing. Chiefs and staff from the Chippewa Nation attended the trial, adding their support to Nuu-chah-nulth Ha'wiih, fishers, members, and supporters attending the hearings.

3. Improved Education

Strong & Appropriate
Governance


Fair Lands &
Resources


Improved
Education


Individual
Health


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

Federal First Nations Education Legislation: We all agree that improving education outcomes for our students is a priority and in BC we are making progress on that objective. However, there remains a difference of opinion on how to proceed at the national level, both between First Nations and regions and with the government of Canada. One of the National Chief's primary objectives has been to make progress on education and considerable work and energy

went into the national process on education. Unfortunately, much of that work has now been stopped due to the inability of First Nations nationally to come together and work collectively on these matters, as exemplified at our AFN Special Chiefs' Assembly last October and December. This work has now been sidestepped by the federal government, who are proceeding with their own federal education legislation based on a discussion paper released on December 11, 2012, "Developing a First Nation Education Act". This is all very unfortunate on a number of fronts.

To consider the issues, on February 4, 2013, the First Nations Education Steering Committee (FNESEC) and the First Nations Schools Association (FNSA) held a meeting in Vancouver with our leadership and education practitioners to discuss Canada's proposed First Nations Education Act. In advance of this meeting the FNESEC and the FNSA prepared a position paper titled, *The British Columbia First Nations Education System and the proposed National First Nations Education Legislation* and made this available to our BC Nations for review.

AANDC has announced that they will be undertaking consultations for development of their proposed education legislation. The consultation process consist of two stages: 1) Between December 2012 and April 2013 a series of meetings have taken place or are planned across the country with First Nation leaders, principals, teachers, parents, elders and community members; 2) Following these consultative meetings, Canada will employ the feedback received in drafting of proposed First Nation education legislation. During the first stage of the consultation process, AANDC has announced meetings coordinated in seven cities across the country. Meetings have already taken place in Halifax and in Saskatoon, and are currently scheduled to take place here in Vancouver, BC, on March 8, 2013.

In BC, we have made it clear from the beginning of this process that First Nations must have a central voice in the development and drafting of any legislation dealing with First Nations education. From our perspective, any new federal legislation must not undermine or compromise the work we are already doing in our region. Unfortunately the consultation regime laid out by AANDC in its discussion guide does not amount to a partnership in the design and development of legislation. AANDC is proposing one day of consultations with First Nations in BC. FNESEC and FNSA are tirelessly lobbying the government to conduct this consultation in a series of meetings over a long period of time in order to fully canvas our issues. Furthermore, as mentioned in my last Quarterly Report, there is no indication that this legislation is "opt in" or that it will in no-way interfere with or displace the First Nation education system that we have worked hard to build in BC. FNESEC and FNSA have been working hard to bring our concerns to the forefront with AANDC officials. Furthermore, I am also raising these issues in the context of Bill S-212, our proposed *First Nations Self-government Recognition Act*, where education would be a recognized jurisdiction for a First Nation should a Nation opt to be recognized and assume jurisdiction over education under the act. We will continue to work with FNESEC and FNSA in providing you updates and more information about this important work.

BC Education Initiative: As mentioned in my previous quarterly reports, FNESEC 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.

The work around the BC education initiative continues to be frustrated by federal approaches to First Nations' "own source revenues" (OSR) with Canada insisting it must offset federal transfers for education with OSR before funding is agreed to and jurisdiction over education can be exercised. At the national level and through the leadership at FNEESC, we continue to challenge Canada's misguided thinking on OSR. At the BCAFN, we continue to address the issue of OSR within the broader context of the BCAFN Fiscal Relations Working Group discussed earlier in this report. It is not acceptable that OSR preconditions are standing in the way of progress on this First Nation initiative that promises to bring substantive change to our communities in supporting their education objectives.

FNEESC has engaged an economist to assist negotiating First Nations in BC to estimate the potential impact of the OSR policy on their education funding, and have also agreed to work on a joint fiscal working group with AANDC officials. To date, estimated impacts of OSR, as determined through study of the joint working group, indicate that application of OSR to education jurisdiction would result in a significant negative impact to individual Nations. FNEESC continues to provide updates on this work at their own meetings and at meetings of the Union of BC Indian Chiefs, the First Nations Summit, and the BCAFN.

AFN Consensus Document (Action Item 7—First Nations Schools): At the January 11, 2013 meeting with First Nation leaders and the Prime Minister, the following recommendation was brought forward by the National Chief to the Prime Minister, one of the eight areas of consensus agreed to by First Nation leadership in advance of the meeting:

First Nation Schools - Guarantee, as in Shannen's dream, of First Nation schools in every First Nation that each and every First Nations parent and child can be proud of, that fully reflects our languages and cultures and provides a safe and supportive place to learn

At the meeting, the Prime Minister indicated that he has no opposition to our statement around education, but he emphasized that for him "it is not about who has control, but is what we are doing – going to best address education to our children?"

This item is directly related to the ongoing work of the BC Education Initiative and the related work of FNEESC. It is also relevant to the broader debate concerning the proposed federal legislation dealing with the education of our children. It is not yet clear as to how action item 7 will be advanced as part of the ongoing work flowing from the January 11 meeting with the Prime Minister, as Canada does not see this as part of the high level mechanism dealing with treaty implementation and comprehensive claims; although obviously it has to become an element of these discussions at some point.

4. Individual Health

Strong & Appropriate
Governance


Fair Lands &
Resources


Improved
Education


Individual
Health


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

First Nations Health Authority and First Nations Health Council: Work continues through the First Nations’ Health Authority (FNHA) and the First Nations Health Council (FNHC) to facilitate a smooth transition in the transfer of programs, services, and funding from First Nations Inuit Health—BC Region, into First Nations control. As I have reported previously, in order to facilitate the transition, the BC Tripartite Framework Agreement on First Nations Health Governance (“Framework Agreement”) commits all parties to creating a health partnership accord as well as a package of sub agreements outlining the legalities and logistics of the transfer of people, assets, funding, and records from Health Canada to the FNHA.

In 2011-2012, First Nations in each of the 5 regions initiated partnership accords with their respective regional health authorities. These sub-agreements are critical to ensuring the continued health benefits of our citizens. Last year, the Parties to the Framework Agreement agreed to plan for a phased transfer of certain portions and responsibilities from Health Canada to the FNHA. On December 17, 2012, in their quarterly update to BC First Nations, the FNHA and FNHC reported that some functions would transfer on July 2, 2013, including mainly headquarters functions, management and administrative functions and policy and program leadership roles. By October 1, 2013, in accordance with the phased transfer plan, full completion of the transfer, including all primary care, public health, environmental health and community health programs, and remaining portions and responsibilities should occur. More information on the status of the implementation is available through the December 2012 transition update document from the FNHC and FNHA at www.fnhc.ca.

As I have stressed in past reports, while there is no question we can do a better job of running our own affairs, this transition is complicated and will require our full engagement as leaders. At the end of the day there is only so much money to provide the services and we will need to be sure that we are maximizing those resources and providing the services that our communities need most at costs that are sustainable.

First Nation Child and Family Caring Society of Canada and the Canadian Human Rights Tribunal: The AFN and First Nation Child and Family Caring Society, in 2007, filed a complaint before the Canadian Human Rights Commission (CHRC) condemning Canada’s current treatment of First Nations children and citing Canada’s longstanding pattern of providing less government funding for child welfare services to First Nations children on-reserves than is provided to non-Aboriginal children. In 2008, the CHRC ordered a tribunal to determine whether or not discrimination had occurred pursuant to the *Canadian Human Rights Act*.

On February 25, 2013 tribunal hearings began, and will run for an estimated 14 weeks in Ottawa. This is a significant hearing. During the hearings, Canada will appear before the Tribunal to face the allegations that it is racially discriminating against First Nations children by providing flawed and inequitable funding and policies for First Nations child and family services on reserve. For more information about the ongoing hearings or appearing as a witness please visit <http://www.fncaringsociety.com/fnwitness>.

In advance of the tribunal hearings, children and young people prepared a video that they hoped would help communicate to the Canadian Human Rights Tribunal why the First Nations child welfare case is important to all children in Canada. Unfortunately the video was not judged admissible by the Tribunal. The FNCFCs have made the video available through their website at <http://www.fncaringsociety.com>.

I want to thank Cindy Blackstock and her team for the work in bringing this complaint forward. I know that it has not been easy and there are now other privacy issues with respect to Canada having allegedly condoned the monitoring of her Facebook account and otherwise.

Support and Ongoing Work Related to Aboriginal Women and Girls:

Pickton Inquiry: The BC Murdered and Missing Women Commission of Inquiry, often referred to as the “Pickton Inquiry,” released its final report on December 17, 2012. The report, which was 1,448 pages long, contained 63 recommendations. Following the release of the report, the Province announced several steps it was taking immediately towards addressing extensive recommendations made in the report: 1) The appointment of the Honourable Steven Point, former Lieutenant Governor of BC and Sto:lo leader, to chair a new advisory committee on the safety and security of vulnerable women; 2) the Minister responsible for Housing committed \$750,000 to the WISH Drop-In Centre Society to allow for the expansion of services it provides to vulnerable women; and, 3) the Ministry of Transportation would begin meeting with communities along the Highway 16 corridor in 2013 with the overall objective of better meeting the needs of transportation in the region. Each of these actions relates directly to the Commissioner’s recommendations for immediate action. Though it is not yet clear if the full list of recommendations will be addressed by the Province, the new chair for the advisory committee, Steven Point, has begun his work.

AFN Consensus Document (Item 6—National Inquiry on Violence Against Indigenous Women and Girls): The work underway regarding the safety and security of our women and girls is, of course, not limited to BC. On January 11, 2013 at the meeting with First Nation leaders and the Prime Minister, the National Chief brought forward action item 6 from the AFN Consensus Document:

Immediate Commitment to the establishment of a National Public Commission of Inquiry on Violence Against Indigenous Women and Girls, including special focus on murdered and missing Indigenous women, and the broader factors that lead to increased vulnerability among Indigenous peoples.

On February 13, 2013, Human Rights Watch, an international human rights organization, released a report entitled, *Those Who Take Us Away – Abusive Policing and Failures in Protection of Indigenous Women and Girls in Northern British Columbia, Canada*. The report is a compilation of research, including interviews with 50 Indigenous women and girls, 37 interviews with families of murdered and missing women, Indigenous leaders, community service providers and others across 10 northern communities and it provides a number of recommendations relating to the need to ensure the safety and security of our women and girls. The report also echoes the calls of many of our citizens and leaders for Canada to establish a National Commission of Inquiry into the murders and disappearances of indigenous women and girls.

BCAFN Resolution 06h-2012: Support for Declaration on Stopping Violence Against Aboriginal Women and Girls was passed by our Chiefs in Assembly. The safety of our women and girls needs to be a priority for our society and we join the National Chief and others, including Michelle Audette, President of the Native Women's Association of Canada and Human Rights Watch, in calling on the Prime Minister to establish a National Commission of Inquiry into violence against Aboriginal women and girls.

BC Ministry's Advisory Council on Aboriginal Women: At our BCAFN Annual General Meeting in November, the Chiefs in Assembly supported the ongoing work of the BC Ministry's Advisory Council on Aboriginal Women (MACAW). The First Nations Leadership Council and MACAW are currently looking to confirm a date with the Premier's office to sign on to an MOU which further strengthens our commitment to work together towards supporting our Aboriginal women and girls.

Women's Memorial March: On Valentine's Day, February 14, 2013, the twenty second Annual Women's Memorial March was held in Vancouver's downtown eastside to commemorate and support the families of missing and murdered women. Marches were also held across Canada in at least fifteen other cities including Edmonton, Calgary, Hagersville, Kelowna, Lebrét, Montreal, Oshawa, Ottawa, Prince George, Regina, Thunder Bay, Toronto, Sault St Marie, Victoria, and Winnipeg. In Vancouver, over a thousand people braved the heavy rain to join the friends and family members of our missing and murdered women. The marchers held banners with the names of the missing and murdered women from the downtown eastside and walked through the downtown eastside, pausing at sites of significance to victims and families to offer prayers, medicines, and roses in remembrance. The March continues a tradition of uniting to ensure that the voices of our citizens that have been silenced, continue to be heard.

Parliamentary Committee on Missing and Murdered Aboriginal Women and Girls: Earlier in February, 2013 Liberal Member of Parliament Carolyn Bennett brought forward a Liberal Opposition Motion concerning missing and murdered indigenous women in Canada. The motion called on the House of Commons to "recognize that a disproportionate number of Indigenous women and girls have suffered violence, gone missing, or been murdered over the past three decades; and that the government has a responsibility to provide justice for the victims, healing for the families, and to work with partners to put an end to the violence; and that a special committee be appointed, with the mandate to conduct hearings on the critical matter of missing and murdered Indigenous women and girls in Canada, and to propose solutions to address the root causes of violence against Indigenous women across the country."

On February 14, 2013, the motion was debated in the House and on the evening of February 26, 2013, the motion was passed, receiving unanimous all-party support to develop a special parliamentary committee on missing and murdered Indigenous women and girls in Canada. The Liberal party has suggested that this constructive initiative would in no way replace the need for a national inquiry into missing and murdered Indigenous women and girls, but that it would offer an important contribution to overall efforts. The motion further stated that members of the committee be appointed no later than March 28, 2013, and that the committee must report its recommendations to the House of Commons no later than February 14, 2014.

Truth and Reconciliation Commission: As many of you are aware, on September 18-21, 2013 the Truth and Reconciliation Commission (TRC) will be hosting a significant national event in Vancouver. Survivors, as well as members of the general public, will come together for four-days where organizers hope to create opportunities for learning and sharing. In addition to the TRC national event, the TRC will be hosting four regional hearings. These regional hearings will take the form of community hearings before Commissioners where survivors can share their experiences and provide personal statements or submissions to the TRC. The purpose of these events is to build awareness of the TRC and the upcoming national event as well as to facilitate the involvement for those who may be unable to attend the national event. The regional hearings are being held as follows:

- Prince George: May 13-14;
- Williams Lake: May 16-18;
- Kamloops: May 28-29; and
- Terrace: June 25-26.

An executive committee made up of members of the Indian Residential Schools Survivors Society (IRSSS) and the First Nations Leadership Council have been working with a not-for-profit organization called Reconciliation Canada to organize activities in addition to the TRC national event including a canoe journey to be held on September 17, 2013 and a reconciliation walk and closing ceremony at BC Place to be held on September 22, 2013. In December 2012, at the AFN Special Chiefs' Assembly in Gatineau, we witnessed the signing of a Joint Statement of Collaboration between the Truth and Reconciliation Commission and Reconciliation Canada. I continue to sit on the executive advisory committee with my First Nations Leadership Council colleagues and support the efforts of both Reconciliation Canada and the Truth and Reconciliation Commission.

PART TWO: RELATED ACTIVITIES

Lower Mainland/Fraser BCAFN Regional Youth Forum: On September 22-23, 2012 the BCAFN and the BCAFN Youth Representatives, Joshua Gottfriedson and Erralyn Thomas, hosted an inaugural Regional Youth Forum in Nanaimo for Vancouver Island. Twenty-four Vancouver Island communities were represented with twenty-nine youth participants and panelists. The Regional Youth Forum created the space and opportunity for young people to continue discussing their priorities and develop a shared vision forward. Their ideas and vision have been encapsulated in a summary report, which is available on our website, www.bcafn.ca.

Following on the success of the first forum, I am pleased to report that a date has been confirmed for a Lower Mainland/Fraser Regional Youth Forum on March 9-10, 2013. This forum will be co-hosted by the Squamish Nation at Joe's House. Citizens and community youth workers between the ages of 19 and 29 are invited to attend. The goal is to create a 'shared path forward' outlining clear 'call to action' points that together the BCAFN elected youth representatives and youth participants can collaborate to achieve. The Youth Representatives have asked all Lower Mainland/Fraser Region communities to identify a youth representative to participate in this important event. Please note in the draft agenda (available at www.bcafn.ca)

that a special session has been identified to discuss and share ideas about strengthening relationships between young leaders and First Nations leadership. I would like to thank the financial supporters of this forum including the New Relationship Trust, the Squamish Nation, the BC Aboriginal Youth Internship Program, ACFCC, and the Sto:lo Tribal Council. For more information, please visit our website at www.bcafn.ca or email youthforum@bcafn.ca.

Winter Assembly of Treaty Chiefs, January 29, 2013: On January 29, 2013, I attended the Winter Assembly of Treaty Chiefs (ATC) meeting in Calgary, Alberta along with our National Chief and the Regional Chief of Saskatchewan, Perry Bellegarde. The ATC's membership encompasses 45 Nations under Treaties 6, 7, and 8 in Alberta. Much like our BC Nations, the Chiefs in Assembly at the Winter ATC discussed challenges around bills such as S-8, the First Nations and Alberta Government relationship, First Nations Education, and the need to protect Aboriginal women and children. The National Chief provided an update on the January 11 meeting with the Prime Minister. Regional Chief Bellegarde also provided an update on next steps in Treaty implementation and Treaty Spokesperson Ovide Mercredi spoke in regards to Treaties 1-11. Not only was the Winter ATC an important gathering for the above mentioned agenda items, but it was also an election forum. I would like to acknowledge my former colleague George Stanley who is Alberta's outgoing Regional Chief, and congratulate Cameron Alexis on his successful election as Alberta's new Regional Chief. I look forward to working with Regional Chief Alexis on the National Executive.

AFOA 2013 Conference – Relationship Building—Discovering Solutions to Complex Issues: On February 13, 2013, I was honoured to deliver the keynote address at the AFOA Conference in Toronto. The theme of this year's conference was *Relationship Building—Discovering Solutions to Complex Issues* and I found this a timely conversation in light of Idle No More, Chief Spence, and the testing of relationships that exist between and amongst ourselves and with the Crown. My full address is available on the BCAFN website at www.bcafn.ca.

Section 35 Forum, February 19-20, 2013, Vancouver: On February 19-20, the Institute on Governance, the BC Treaty Commission and the New Relationship Trust, held the *Beyond Section 35 Symposium* which brought together over 120 Indigenous and non-Indigenous leaders, academics, government officials and legal experts at the Wosk Centre, in Vancouver to discuss the history, impacts and future of section 35 of the *Constitution Act, 1982*. Former Supreme Court of Canada Justice Ian Binnie gave a keynote address on the first day of the two-day forum giving us a glimpse into the thinking of the court behind many of the cases that help define the current common law around Section 35. On the second day of the symposium, we were addressed by former Prime Minister Brian Mulroney via video address. I was pleased to take part on a panel during the first day of the two-day forum, where the impacts that Section 35 recognition of Aboriginal rights has had on both federal and provincial law and policy in Canada was discussed and debated.

PART THREE: BC ASSEMBLY OF FIRST NATIONS' OPERATIONS

BCAFN Elder Representative

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

BCAFN Women's Representative

Chief Glenda Campbell Tzeachten First Nation

BCAFN Youth Council

Joshua August Gottfriedson Tk'emlups te Secwepemc maleyouth@bcafn.ca

Erralyn Thomas Snuneymuxw First Nation femaleyouth@bcafn.ca

BCAFN Board of Directors

Chief Maureen Chapman Skawahlook First Nation

Chief Trish Cassidy Qualicum First Nation

Tribal Chief Liz Logan Treaty 8 Tribal Association

Chief Nelson Leon Adams Lake Indian Band

Chief Bruce Underwood Pauquachin First Nation

BCAFN Staff

Courtney Daws	Director of Operations	courtney.daws@bcafn.ca
Angie Derrickson	Policy Analyst	angie.derrickson@bcafn.ca
Alyssa Melnyk	Policy Advisor	alyssa.melnyk@bcafn.ca
Whitney Morrison	Executive Assistant	executive.assistant@bcafn.ca
	Finance	finance@bcafn.ca
	Reception	reception@bcafn.ca

Information Sharing/Webpage: The BCAFN website hosts the “BCAFN Governance Toolkit” where Part 1 - The Governance Report, Part 2 – The Governance Self-Assessment and Part 3 - A Guide to Community Engagement, are accessible online along with their tools, reference documents and other resources (www.bcafn.ca). If you wish to provide updates respecting your governance work, including any laws your Nation has passed or are developing, please contact our office. In addition the webpage includes individual profile pages for each of our Nations. Our office will continue to work with First Nations that wish to contribute to and update their individual profile page to share information and highlight their successes with others. If you would like to provide any feedback, contribute to the site, or update your First Nation's profile, please contact angie.derrickson@bcafn.ca.

NOTICES

March 26th-27th, 2013

AFN National Treaty Forum

Whitecap Dakota First Nation, SK

For more information see www.afn.ca

April 4th-5th, 2013

BCAFN Special Chiefs' Assembly

Vancouver, BC

For more information see www.bcafn.ca

June 26th-27th, 2013

BCAFN Annual General Meeting

Location – TBD

For more information see www.bcafn.ca

July 16th-18th, 2013

AFN Annual General Assembly

Whitehorse, YK

For more information see www.afn.ca

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