BRITISH COLUMBIA
ASSEMBLY OF FIRST NATIONS

REGIONAL CHIEF'S
QUARTERLY REPORT TO THE CHIEFS OF BC

June 12, 2014

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PART ONE: BUILDING ON OUR SUCCESS – IMPLEMENTING THE PLAN

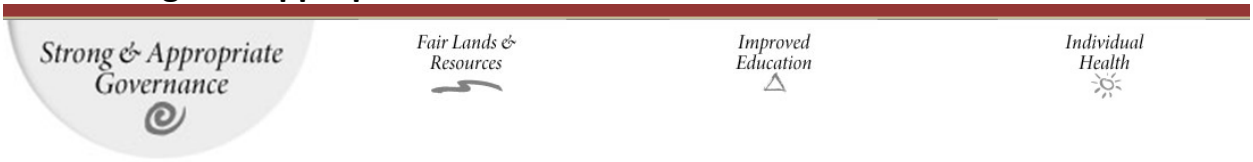
The focus of the British Columbia Assembly of First Nations (BCAFN) continues to be implementation of the *Building on OUR Success* platform (updated 2012) and consisting of four key and interrelated areas. These are:

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

We are currently working on the second edition of *Part 1: The Governance Report*, of the BCAFN *Governance Toolkit*. The second edition will include newly updated material throughout, a more user-friendly digital version with expanded links to library materials, and an update on recent legislative initiatives, with additional charts for our Nations highlighting new agreements, and other information.

It was our initial goal to launch this second edition of *The Governance Report* at our Annual General Meeting at the end of June. However, this meeting has been postponed to September 9-10, 2014, at which the 2nd Edition will be officially launched.

If you are interested in viewing or downloading any or all three parts of the Toolkit, they are available on our website at www.bcafn.ca/toolkit.

First Nations Finance Authority (FNFA)

As many of you are aware, one of the initiatives our Nations have been advancing in support of strong and appropriate governance is to find ways to secure much needed access to affordable capital through long-term public-debt financing. All governments require access to public financing to support their activities and most do so through the issuance of government bonds.

Because First Nations are practically speaking too small to issue a bond on their own, we have created the FNFA to pool our financing requirements in order to access the market, achieve better credit resulting in lower interest rates. The FNFA continues its work towards the issuance of its inaugural First Nations bond and anticipates entering the capital markets by the end of June. As a refection of the strong borrowing model and the checks and balances in place, the FNFA received an investment grade credit rating of A3 rating from Moody's Investors Service. It is anticipated that the FNFA's first issuance will be approximately $100 million. Although the first bond could be purchased by a single institutional investor, hopes are to have wider distribution. Unlike municipal bond issues, the FNFA notes their bond will allow loans to FNFA members across the country, offering a more diversified investment opportunity. There are currently 33 FNFA borrowing members, more than half of which are from British Columbia, with three more scheduled to join. FNFA members can borrow money for a range of local purposes supporting the building of much needed public infrastructure with loan periods of up to 30 years. For more information on the FNFA contact Ernie Daniels (President/CEO) at (250) 768-5253 or email Ernie at edaniels@fnfa.ca. This is an exciting and significant initiative that, as more First Nations join, will help transform our communities.

First Nation Land Management (FNLM) Regime

Increasing numbers of our Nations are choosing to remove themselves from those sections of the *Indian Act* dealing with land management (about 25% of the Act) by developing and implementing their own land management regime – with their citizens passing their own community Land Code. To date 110 First Nations across Canada are signatories to the Framework Agreement on First Nation Land Management of which 49 have passed Land Codes. On May 9, the Williams Lake Indian Band (WLIB) became the latest in BC and announced the results of their Nation's membership vote on their Land Code. The results were very positive: 154 members voted in favour of the Land Code and Individual Agreement, representing an 85% approval. I would like to congratulate Williams Lake Indian Band on its achievement.

Federal Government's Legislative Agenda

In addition to governance initiatives led by our Nations to implement the inherent right, which may or may not include the need for federal or provincial legislation, the federal government still seeks to legislate our post *Indian Act* future for us in many different areas. All the more

reasons for us to take back control of our own governance evolution and speed up the pace of governance reform and Nation rebuilding.

Bill C-33: *First Nations Control of First Nations Education Act:* Prominently in the news as of late is the Conservatives so called *First Nations Control of First Nations Education Act* which has been put on hold following the resignation of former National Chief Shawn A-in-chut Atleo and the recent decision of the AFN Chiefs-in-Assembly to reject the Bill. It was interesting in this case that the federal government made AFN's support of the Bill a condition on moving forward (not that it should) but has not made AFN's support a requirement with respect to any other of its legislative initiatives, including in cases where the AFN Chiefs-in-Assembly also rejected those initiatives. Draw your own conclusions. That political issue aside, Bill C-33 is addressed in more detail later in this report under "Improved Education".

First Nation Financial Transparency Act: Bill C-27: *First Nation Financial Transparency Act* received Royal Assent on March 27, 2013. As I reported in my previous quarterly report, this act is now law and as of January 1, 2014, the provisions in this act requiring First Nations to publish the salaries and expenses of the chief and councillors are in effect. Consequently, you have 120 days following the end of the last fiscal year (ending on March 31, 2014) to publish both your audited consolidated financial statements with an attached schedule of chief and council remuneration for the 2013-2014 fiscal year on your website. This means the deadline to publish is July 29, 2014. If a member of your community asks to receive the information, your band office has until 120 days after the end of fiscal (July 29) to provide it (if the information is requested within that 120 day window) or must provide it immediately anytime after the 120 day period has elapsed. If you decide to charge a fee to provide the documents, the fee cannot exceed the actual cost of doing so. If your Nation does not have a website on which to publish your financial statements, the legislation allows you to request another organization, such as another First Nations organization, to publish the financial statements online for you. You can also ask AANDC to post the information to their website on your behalf. For more information on compliance with this new legislation, you can visit the AANDC website or contact them directly.

Family Homes on Reserves and Matrimonial Interests or Rights Act: This Act applies to the division of family property on-reserve when there is a marriage breakdown, and also to the granting of protection orders for spouses and children living on-reserve. Bill S-2 received Royal Assent on June 19, 2013. An Order in Council was passed on December 16, 2013, authorizing the provisions in the act related to the enactment of First Nations laws to come into force (sections 1-11 and 53). The act provides for a 12-month transition period intended to enable First Nations to enact their own matrimonial property laws before the provisional (default) federal rules apply. These provisional federal rules, including the ability for provincial courts to extend protection orders on reserve, will come into force on December 16, 2014. If you do not want these default rules to apply to your community you need to pass your own law prior to December 16, 2014.

To assist our Nations in this transition (either with respect to the default rules or the developing of your own law) the National Aboriginal Land Managers Association (NALMA) has been

designated as a "centre of excellence" for matrimonial property. This Centre is to "operate at arm's length from the Government of Canada to support First Nations in developing their own matrimonial real property laws, effectively implement the provisional federal rules once in force, and provide assistance with creating alternative dispute resolution mechanisms." The Centre of Excellence is holding a National Forum on Matrimonial Real Property for land managers on June 17-19, 2014 in Toronto, and they will be holding information sessions across Canada, including two sessions in British Columbia on September 16-18, 2014 in Terrace and November 4-6 in Kelowna. Further, I understand that NALMA has developed or is developing a Matrimonial Real Property (MRP) Toolkit. For more information on the new centre of excellence, you can visit their website at www.coemrp.ca. I will provide a further update on these information sessions in my next quarterly report and we will post information on the information sessions, when it becomes available, on our website: www.bcafn.ca.

The BCAFN *Governance Toolkit* also has some very useful information on what other Nations in BC have done in terms of enacting their own laws under the "Matrimonial Real Property" jurisdiction in our *Governance Report*. You can find this on our BCAFN website: www.bcafn.ca/toolkit.

As I have previously reported, the staff of the BCAFN, FNS and the UBCIC, have been working with staff from the Ministry of Justice and Ministry of Aboriginal Relations and Reconciliation in a Family Homes on Reserve and Matrimonial Interests or Rights Group to explore the impacts of this legislation, share information, assist one another and find ways to collaborate. These meetings continue and there are plans to co-develop informational materials that will be disseminated at upcoming Assemblies. I will continue to update you on this progress.

First Nations Elections Act: After completing debates in the Senate, Bill C-9 was passed into law and received Royal Assent on April 11, 2014. The *First Nations Elections Act* is opt-in legislation for First Nations that conduct their elections under the *Indian Act*, either through custom election codes or under the *Indian Band Election Regulations*. The Act extends the prescribed election term under the *Indian Act* from two to four years, has provisions for a re-call mechanism, provides that elections can be contested in a court, provides specific criteria for those wishing to run for Chief, allows for the setting of candidacy fees (not to exceed $250 and refundable if the candidate received at least five per cent of the total vote), and sets out penalties for defined offences such as obstructing the electoral process and sets out offences and penalties related to the election of a chief or councillor. Under the Act, the Minister of AANDC has no role in receiving, investigating and deciding upon election appeals. In order to opt in, a First Nation must provide details of their elections regulations including preparation of voters' lists, posting of notices and nomination of candidates, to AANDC. None have yet to do so as of June 1, 2014. This Act was, in fact, developed jointly with interested First Nations, although a provision the government included that was not supported by those Nations involved, was the Minister being able to force a First Nation under the Act if there is a prolonged election dispute under the *Indian Act* with respect to that First Nations (whether the First Nations is under custom code or not).

Bill C-428: Indian Act Amendment and Replacement Act: Bill C-428, a private member's bill introduced by Conservative MP Rob Clarke (himself Aboriginal) completed second reading on May 8, 2014. The bill rightly acknowledges that the *Indian Act* "does not provide an adequate legislative framework for the development of self-sufficient and prosperous First Nations' communities". However, while the suggested changes outlined in this bill seem positive, it is not the comprehensive change that is needed in order for our Nations to move forward towards self-government out from under the *Indian Act*. The bill, as it has currently been amended, includes provisions removing the Minister's powers to approve or disapprove of a First Nation's by-law. A Nation's by-law, created under the *Indian Act*, would come into force on the day it is made accessible on a website or local newspaper. The bill would remove the words "residential school" and update an outdated, and, rarely enforced, provision which prohibited First Nations children from attending home school or missing school for reasons such as sickness. These relatively small, albeit now positive changes are really just tinkering around the edges of the *Indian Act* as opposed to the full-on transition that is needed. While no doubt well-intentioned, I am concerned that this bill creates an illusion of progress and that these small, and relatively insignificant, changes to the *Indian Act* will be mistaken for what is really needed to create actual substantial change; namely a "self government recognition act" that we have been proposing and working on for some time in BC.

Safe Drinking Water for First Nations Act: As I reported in my last quarterly report, the *Safe Drinking Water for First Nations Act* came into force on November 1, 2013. The Act provides for the federal government to establish and then enforce standards to ensure the safety of drinking water on-reserve. In terms of implementation, standards will be developed on a region-by-region basis over the next two years. Some regions have already begun this work.

In my opinion, to actually improve water quality and water systems on-reserve requires true Nation building and self-governance in our communities. Not unilaterally imposed legislation that essentially offloads the responsibility of water quality onto First Nations without the appropriate governance structures and financial supports in place. Notwithstanding these real concerns, we are nevertheless looking to work with AANDC BC Region to engage in a process to co-develop regulations as we know this act is being implemented. We must do what we can to make this situation work until we are in a position to have this legislation amended to better support the process of Nation building and the development of our own systems and rules instead of being put in the unfortunate position of administering the federal government's rules with all the responsibility but inadequate tools to do the job.

Bill C-10: Tackling Contraband Tobacco Act: Bill C-10 completed 3rd reading on May 30, 2014 and awaits Royal Assent before becoming law. The bill creates a new criminal office of trafficking in contraband tobacco, particularly "a tobacco product, or raw leaf tobacco that is not packaged, unless it is stamped" and creates a mandatory minimum sentence for repeat offenders. Some Nations have expressed concerns that the bill could potentially infringe on First Nations' ability to trade and sell tobacco. Opposition to this bill is particularly strong in Ontario.

Northwest Territories Devolution Act: Although not directly impacting BC First Nations, this Act does have elements that are of interest to us in BC where our Nations are in the process of negotiating modern treaties or otherwise reconciling with the Crown and rebuilding our governance structures and institutions. The Act will transfer the administrative and management of public lands, water resources, mineral resources and oil and gas management from the Government of Canada to the Government of the Northwest Territories.

The Act received Royal Assent on March 25, 2014, and replaced the *Northwest Territories Act.* This Act amends 27 federal Acts and makes a number of changes to land and water boards and resource development in the Northwest Territories. While the Act contains specific provisions designed to ensure that devolution does not negatively affect Aboriginal rights or on-going land claims negotiations in the Northwest Territories, various components of the act have altered First Nation authorities set out in existing self-government agreements. This could result, in some cases, in an elimination of co-management boards meaning First Nations will no longer have equal decision-making power in water management and other projects. The AFN is continuing to monitor this legislation and working with Regional Chief Bill Erasmus from the Northwest Territories to ensure that indigenous rights are protected.

2. Fair Access to 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*

The Need for Reconciliation

There is a need for true reconciliation between our respective Peoples and the Crown; where all federal and provincial policies respecting our peoples support reconciliation and do not work at cross-purposes and all where the common law is upheld. We continue at the BCAFN to impress upon both the federal and provincial governments the need to fundamentally shift their thinking beyond the concept of our Nations making "land claims" and more towards recognition and reconciliation when working with our Nations to resolve the land question. We continue to push the federal government to adopt a broad "Reconciliation Framework" at the highest level, including principles that support recognition and reconciliation. The framework we continue to propose would require that all federal government initiatives are guided by a reconciliation framework which would stretch across-government, breaking down the silos within government. It is my belief that a stronger mutually beneficial 'certainty' can be achieved through the adoption of such a framework which would radically transform the way Canada approaches so called comprehensive claims under its out-dated policy. This is discussed further below.

Federal Comprehensive Claims Policy and the Senior Oversight Committee (CCP SOC): As noted in my last report, the CCP SOC's Terms of Reference expired on December 1, 2013. The CCP SOC was established to provide recommendations to the Prime Minister and the National Chief on how to reshape Canada's so-called comprehensive claims policy; that being its policy for addressing the land question. A separate SOC was created specifically to address treaty issues.

One of our goals in participating on the CCP SOC was to impress upon our government counterparts the need to develop an over-arching reconciliation framework. It is our contention that this reconciliation framework could be used across the federal government's departments to shift its mandates to be reflective of principals respecting the recognition and reconciliation of section 35 rights. This would reduce silos, support coordinated efforts, and result in more tangible results on the ground. In my view, the CCP SOC was productive, despite its challenges, whereby we were able to jointly develop recommendations on areas such as shared territories, legal reconciliation techniques, and governance, as well as a list of principals to be utilized by Canada to underpin a new reconciliation framework.

Unfortunately, these recommendations, while jointly developed, continue to sit on the desk of the staff in the Prime Minister's Office, who have yet to give the green light to submit these recommendations to the Prime Minister for consideration. This is troubling. It has now been six months since the conclusion of the CCP SOC and it is with deep disappointment that I report the continued silence on the part of the Prime Minister's Office with respect to moving these recommendations forward. I am working with my colleagues on the AFN Executive to apply pressure on the PMO – including sending follow up letters.

While it appears these recommendations have fallen on deaf ears, there remains an outstanding need for reconciliation and reform of Canada's Comprehensive Claims Policy. The work of CCP SOC, at minimum, provided the impetus for collective visioning by our Nations on how to address issues of shared territory, legal reconciliation techniques, and governance. The BCAFN remains committed to utilizing all avenues to push this work forward.

FNLC Shared Territories/Overlap Forum

While shared territories and overlaps have been a long standing impediment to ensuring fair access to lands and resources, there exists now, I believe, increased political will to address questions of proper title holder; both between ourselves and with the Crown. This political will is driven by: both the federal and provincial governments continuing to press for major resource development within our respective territories; as some of our Nations look to complete modern treaties, and; recent and forthcoming rulings from the courts. This "elephant in the room" issue is now finally being addressed in numerous forums and from various perspectives. To intensify the debate, questions of proper title holder and shared territory will soon be squarely before the courts in a number of instances as the legitimacy of one Nation to reconcile and resolve the land question with the Crown in respect of a territory they have simply "claimed" in a political process, is legally considered. This of course is not the ideal situation – but seems inevitable.

Historically, of course, many of our Nations shared territories amongst themselves. From what I am told, in most cases where disputes arose there existed traditional processes and protocols for resolution. Today we can point to a number of examples where modern protocols respecting these practices continue to be utilized between neighbouring Nations; however, this is not always possible. There is general agreement, nevertheless, among our Nations and with the Crown that our Nations should lead the resolution of these issues and in determining any process which attempts to establish proper title holder(s) or prescribes steps towards resolution.

The question of shared territory has been of great concern in the BC treaty-making process. Where Nations have been unable to reach agreement on shared territory or overlap we have seen governments proceed with negotiations and agreements through the BC Treaty Process despite outstanding shared territory issues. This has resulted in what some have called an unfair playing ground between Nations within the treaty process and those Nations who are outside the treaty process. While there has been some success in resolving shared territory issues through the treaty process, I think we can all agree that substantive issues still exist for First Nations which are not being addressed in current treaty negotiations, especially as it relates to issues of proper title holder. And now, of course, recourse is being sought in the courts.

In addition to shared territory issues arising out of the treaty process, there are parallel shared territory issues arising out of other land and resource related initiatives involving the Province (e.g., reconciliation agreements, MOUs, Strategic Engagement Agreements etc.). At this point Canada only gets formally involved in "land question" issues through the BC treaty-making process. Nevertheless, it is all connected and the activities purporting to lead to reconciliation in one "land question" resolution silo can not be divorced or considered in isolation from those being addressed in another – hence the need for a broader reconciliation framework.

On March 24-25 the FNLC co-hosted a BC Chiefs' Forum on Overlap and Shared Territory Issues in Musqueam to provide First Nation leadership with a space to discuss these important issues. This forum was based on resolutions from our BCAFN Annual General Meeting in June of 2013, [*Resolution 03(b) – Support for the Protection of Rights and Title by First Nations in Overlapping Territories and Resolution 03(c) – 2013 Support for the Establishment of Dispute Resolution Mechanism for Overlapping Claims and Shared Territories Issues*] and similar resolutions passed at UBCIC and FNS meetings, and building on the Strategic Dialogue Session that the BCAFN held in May 2013. I am glad so many of you attended this BC Chiefs' Forum.

Delegates to the Forum were provided with a Draft Backgrounder and Framework to stimulate discussion. Included in the Draft Backgrounder was analysis of the current legal and economic landscape, as well as draft goals, guiding principles, best practices, and recommendations. The two-day session included panel presentations from the Tla'amin Nation, Heiltsuk Nation, and Haida Nation on best practices, as well as breakout sessions on Guiding Principals, Best Practices/Tool, Dispute Resolution mechanisms, and Proper Title Holder.

Feedback continues to be incorporated into a revised Backgrounder and Framework and each FNLC organization has committed to presenting the document to their respective membership at upcoming meetings for further dialogue and refinement. Shared territories and overlap issues will be included on the agenda of our BCAFN AGM in September. Your thoughts on this work are always most welcome. This is perhaps the toughest issue we need to resolve amongst ourselves as the test for proving title and our rights and how we must be accommodated by the Crown, continues to be further clarified by the courts. If you have commentary you would like to provide as to how to coordinate this work better or input into the Draft Backgrounder and Framework, please do not hesitate to contact Whitney Morrison, Policy Analyst, at the BCAFN Office: 604-922-7733 or email: whitney.morrison@bcafn.ca.

Specific Claims

Specific claims (as opposed to comprehensive claims) is a somewhat artificial term used by the federal government to refer to claims, of land or otherwise, that result from actions taken by the Crown in the administration of land and resources, reserve creation (or lack thereof), and the implementation of treaties.

In 1982, Canada released *Outstanding Business*, its first formal policy on Specific Claims. The significant backlog of Specific Claims that have been filed in the 25 years that followed *Outstanding Business* led Canada to announce its *Justice at Last Specific Claims Action Plan*. The commitments in *Justice at Last* included a political agreement on Specific Claims Reform, including the development of the *Specific Claims Tribunal Act* which established the Specific Claims Tribunal (the "Tribunal"). The Tribunal is an independent body that adjudicates Specific Claims valued up to $150 million where a negotiated settlement could not be reached between Canada and the First Nation. Since the Tribunal began in June 2011, more than 46 claims have been filed. The decisions of the Tribunal are final, subject only to judicial review by the Federal Court of Appeal.

A 5-year legislative review is expected to take place over the coming year as Canada evaluates the *Specific Claims Tribunal Act* and *Justice At Last*. As I set out extensively in my previous quarterly report, there are a number of serious concerns that have been expressed about how the government's Specific Claims Branch processes claims. It is being suggested that claims made after *Justice At Last* was adopted have a poorer chance of being negotiated and settled than claims filed prior to 2007. If this is true it is very disturbing.

Notwithstanding the issues with the Specific Claims Branch, the Tribunal is now up and running and issuing decisions. Although I think it is fair to say it seems somewhat overwhelmed by the caseload. In February of 2013, the Specific Claims Tribunal issued its decision in *Kitselas*. The Kitselas First Nation asserted that when their reserve was being set aside, reserve commissioners omitted a 10.5 acre village site. The Tribunal found in favour of the Kitselas First Nation and affirmed that the Crown had a legal obligation to include the village site in the Kitselas reserve. Canada disagreed with the Tribunal's findings and proceeded with a judicial review of the decision, the hearing of which took place on April 7-8, 2014 at the Federal Court of Appeal in Vancouver. The Court heard submissions from Canada, Kitselas First Nation and two interveners: the Tribunal and a coalition of BC First Nations. Canada argued that the

decision by the Tribunal should be overturned and claimed that the Tribunal had made errors in fact and law. Legal counsel for Kitselas and the Interveners argued that the Court should show deference to the Tribunal's decision and pointed out that when it was created, the Tribunal was meant to be an alternative to the courts when a resolution on a specific claim could not be reached through negotiation. The Tribunal's mandate and structure was jointly established by the AFN and Canada and thus shows that the intention was that this be the final and binding decision on specific claims, as opposed to a stepping-stone to the courts.

On June 5, 2014 that Federal Court of Appeal released its unanimous decision in *Canada v. Kitselas*, 2014 FCA 150. The Court found that the Tribunal reached the appropriate legal conclusion with respect to the fiduciary duty owed in this case by Canada to the Kitselas. While the Court agreed with Canada's submissions that the standard of review for decisions of the Tribunal is correctness, they found but that the Tribunal did not err in law in its conclusion that "the Kitselas had a cognizable interest in the excluded land that gave rise to a fiduciary duty of loyalty, good faith, and full disclosure and of acting reasonably and with due diligence in the best interest of the Kitselas in determining whether to include or to exclude that land from Kitselas I.R. No. 1." Being that this is the first judicial review of a decision of the Tribunal, the Federal Court of Appeal made some other general findings, in addition to establishing the standard of review, with regard to the Tribunal itself, including that the role of the Tribunal, with respect to the validity of a specific claim, is to apply similar legal rules as would be applied by any superior court. The Court set out that Canada had fiduciary obligations throughout the reserve creation process and that these obligations began in 1871 when BC joined confederation. The Court referred to the unique history of reserve creation in British Columbia, where the Crown undertook solely to establish reserves, as opposed to it being done as a result of a treaty process, like elsewhere in Canada. This unilateral undertaking was set out in Article 13 of the *British Columbia Terms of Union, 1871* when Canada took sole responsibility over "[t]he charge of the Indians, and the trusteeship and management of the lands reserved for their use and benefit". Thus Article 13 of the Terms of Union gave Canada such a high degree of discretionary control over the lives of Aboriginal peoples that, in appropriate circumstances, it gives rise to a fiduciary duty with respect to the provision or non-provision of reserve lands.

This is, in my opinion, an incredibly important decision on a number of fronts. Not least of which for me is the gradual breaking down of the artificial distinction between specific and comprehensive claims silos and the need for the Crown to act honourably with respect to reconciliation more generally. It is of course a huge and significant victory for the Kitselas and I congratulate them for working so tirelessly to seek restitution for the Crown's breach of the fiduciary duty owed to them. Their determination will likely lead to more claims dealing with the reserve allotment process being resolved. This is also a very important judgment as it further clarifies the role and function of the Tribunal along with the standard of review and the role of the superior court judges sitting on the Tribunal.

In my last quarterly report, I acknowledged the Williams Lake Indian Band's recent victory at the Specific Claims Tribunal. Shortly after the Tribunal's decision was released, on March 28, 2014 the federal government filed an application for judicial review of this decision. In the wake of the Federal Court of Appeal's decision in *Kitselas*, I urge the federal government to withdraw

its application for judicial review in this case and instead look to compensating the Williams Lake Indian Band for their loss so that they can finally receive restitution for the injustice that took place. If Canada continues to pursue this judicial review, it will be further demonstration of this government's lack of commitment to engaging in a process of reconciliation based on the recognition of our inherent Aboriginal rights and title with our Nations and will seriously undermine the entire *Justice At Last Specific Claims Action Plan*.

Major Resource and Energy Infrastructure Development

Since my last report to you, the dialogue around major resource and energy infrastructure development has been increasingly focused on stewardship and, of course, on securing First Nations' support on energy infrastructure projects. For the province it is all about Liquefied Natural Gas (LNG) and for the federal government it is all about oil pipelines and tanker transportation. That this dialogue is happening on a provincial and national level and striking a chord in almost all federal and provincial policy is testament to the political and legal leverage First Nations carry in advancing our issues which have, until now, remained predominantly at the bottom end of political priority. Needless to say, this presents a challenge for the country as a whole and our Nations, as our Nations attempt to utilize this influence strategically and responsibly. That the current push for sustainable major resource development could support healthy and thriving communities is, of course, not lost on our Nations. In fact, the economic opportunities that could result from developing energy infrastructure could be utilized to support much needed Nation building efforts for our communities, provide our citizens with jobs, and provide investment in our health, education, languages and cultures.

Government is quick to point out that in order to take advantage of economic opportunities in new markets we need to move fast. This may be true. However, this does not make it any easier for First Nations, that while not opposed to responsible development per se, have not had our issues dealt with and are now being brought in at the preverbal "eleventh hour" in order to secure the certainty necessary to get projects approved and to create a strong investment climate. In some cases, it may be too late and the country will pay the economic price for denying Aboriginal title and rights for too long.

In my view, with the proper reconciliation framework in place, our Nations' issues could be approached in a much more efficient way that ensures our Nations' voices are heard and respected and where our Nations take their rightful place within confederation. I continue to advocate this view in all interactions with the on-going stream of senior officials grappling with questions on how to engage with First Nations and who seek First Nations' consent or support. The fact of the matter is there is no short cut to true reconciliation. Where our territories are concerned, dialogue on major resource development cannot be separated from the absolute need for the Crown to support our Nations' rebuilding efforts and to deal with the proper title holders; not the AFN nor any other group purporting to represent "Indians". At a high level this requires a transformative shift in government's approach, where the objective is reconciliation as the core objective, not simply getting a "yes" on a specific project. Without such an approach the "yes" on a specific project will unlikely be forthcoming and if it is a "yes", it will be subject to much legal and political wrangling; both between and among our respective peoples and with the Crown.

There have been a number of recent announcements and developments where major resource development and energy infrastructure are concerned. Some of these announcements and developments are described below.

Liquefied Natural Gas (LNG)

Liquefied Natural Gas Development in BC and the Province's Development Agenda: The Province of BC continues to highlight its desire to establish BC as a future leader in natural gas, supply, and export as a part of their *BC Jobs Plan*. There are a number of challenges to making this a reality. Broadly speaking, Canada is one of a number of countries seeking to tap into the forecasted increase in energy demand from Asia; therefore, when speaking about LNG, senior officials have tended to highlight that this window of opportunity is short. BC's success will depend on a number of factors, including the details of BC's new LNG tax regime for the natural gas industry. In its February budget, the Province released some details as to what the BC LNG Tax formula would be stating that an initial tax of 1.5% on net income would be used and once the capital costs of building were passed then the tax could increase up to 7% depending on the project. Further information has yet to be released; however, the Province has indicated to investors that November 2014 would be the deadline for making the Tax Regime public.

This timeframe comes following the 2nd annual international *LNG Conference: Powering a Strong Economy-BC's LNG in the Global Market* on May 21-23, 2014, at the Vancouver Convention Centre. This provincial government-hosted conference brought together First Nations, government, and industry to discuss a number of topics such as jurisdiction, financing LNG, and First Nations and community partnerships to name a few. BC used the LNG Conference to announce the establishment of a LNG Environmental Stewardship Initiative (LNGESI) with the suggestion that it would be a platform for First Nations, the province, and the private sector to collaborate on enhancing environmental values. No details on how this process will roll out have been given; however, I will look to provide an update when possible.

Of course one of the most critical challenges to building BC as an international source of LNG is ensuring Aboriginal rights and title, and proper title holder issues are addressed. At one end of the spectrum, the Province will have to find a way to address concerns raised by Nations impacted by hydraulic fracturing ("fracking") practices, which are used to reach shale gas. At the other end, there are also Nations that stand to benefit from positive business partnerships where export terminals are proposed or where LNG pipelines across their territories.

First Nation LNG Summits: Nations impacted by LNG, whether through fracking or by its transport or processing across or within their territories, continue to meet in efforts to share their perspectives and develop a First Nations LNG strategy. First Nations LNG Summits have now taken place in Prince Rupert, Prince George, and Fort St. John. The most recent summit was the *First Nations Shale Gas/LNG Summit – Striking the Balance* held in Fort Nelson on April 14-16, 2014. First Nations leaders, provincial and federal representatives, and natural gas industry proponents attended the forum and shared information and discussed the risks and opportunities that come from shale gas – LNG development.

As those who were able to attend the Fort Nelson Summit know, in what was very poor timing, the Province announced changes to environmental assessment rules, which would see sweet gas plants exempted from automatic environmental assessment. This of course did very little to instil First Nations delegates' confidence in the Province's statements about resetting its relationship with First Nations as a part of the LNG strategy. Federal and provincial representatives were asked to leave the Summit by Chief Sharlene Gale. Environmental Minister Mary Polak quickly reversed the decision after the incident in Fort Nelson and has stated that the province would consult with First Nations before considering the change.

Oil

BC's Government's Requirements for Heavy Oil Pipelines: Last June the Province of BC announced *Requirements for British Columbia to Consider Support for Heavy Oil Pipelines*, which included five conditions. They are:

1. Successful completion of the joint review panel,
2. Establishment of world leading marine oil spill response, prevention and recovery,
3. Establishment of world leading practices for land oil spill prevention, response, and recovery,
4. Legal requirements on aboriginal rights and title are addressed, and
5. BC receives a fair share of the fiscal and economic benefits.

The announcement led to the establishment of a BC-Alberta Working Group led by BC Deputy Minister Steve Carr of the Ministry of Natural Gas Development and Alberta Deputy Minister Greg Sprague of the Ministry of Energy. The working group was struck to address concerns over meeting the five conditions given Alberta's interest in proposed pipelines that would cross between the two provinces. A final report was released on January 27, 2014, which included objectives for five working group teams to meet over a 6 to 18 month period.

One of these working groups is to focus specifically on Aboriginal related issues. Based on the quarterly report of the BC-Alberta Working Group, the First Nations Working Team has completed a final draft of a "First Nations Engagement Principals for Energy Development and Exports" which is now being reviewed by respective BC and Alberta DMs. The draft framework is said to establish principles to guide future proponents in engagements with First Nations, and discusses opportunities to build social and economic relationships between First Nations, government, and industry.

Unfortunately, BC First Nations leadership has not been included in the process for developing this framework, nor has the draft framework been released for review. Any framework that attempts to define principals and processes for engaging First Nations should naturally include First Nations in its drafting, so we are at a loss as to why First Nations were not involved. Once available, I will look to provide analysis of the draft framework proposed by the BC-Alberta Working Group.

The second quarterly report is due to the BC- Alberta Deputy Ministers on June 30, 2014.

Canada's Responsible Resource Development (RRD) Plan: Some time ago now the Conservative government adopted what they called Canada's Responsible Resources Development Plan ("RRD Plan") and shifted the conversation away from sustainable development towards measures aimed at speeding up actual resource extraction activities. This really has not been an effective strategy and has attracted much criticism from many different voices as implementation of the plan unfolds. Canada's RRD Plan focuses on three key areas: 1) streamlining the regulatory process; 2) enhancing marine safety and pipeline safety; and, 3) supporting Aboriginal participation in Canada's resource economy. In the first phase of this plan, the federal government initiated wide ranging legislative changes to Canada's Environmental Assessment in 2012 through the omnibus *Budget Implementation Act*. Through this act amendments were made to the *Fisheries Act*, *Navigable Water Protection Act*, and *Species at Risk Act*. This plan is also being implemented in a number of other ways as discussed below

Canada's Special Federal Representative on West Coast Energy Infrastructure: On May 27, 2014 Natural Resources Canada Minister Greg Rickford announced that his ministry would seek to implement two new initiatives aimed at engaging BC First Nations in West Coast Energy Infrastructure. The two measures, a Tripartite Forum and Major Projects Management Office West, flow from recommendations made by Special Federal Representative on West Coast Energy Infrastructure Doug Eyford in his recent Report to the Prime Minister.

Major Projects Management Office West: Canada currently utilizes the Major Projects Management Office (MPMO) to support its approach to the regulatory review of major resource projects. Minister Rickford's announcement signalled the establishment of a western arm of the MPMO, located in Vancouver, which would focus specifically on coordinating activities on energy infrastructure development with First Nations and industry in BC and Alberta. Other issues in BC related to energy projects such as employment and business opportunities, as well as tanker and pipeline safety systems will also be a focus of this office. Michael Henderson, Regional Director General of Transport Canada – Pacific Region, has recently been appointed to lead the MPMO West office and has signalled that the government intends to undertake engagement sessions with First Nations communities throughout this summer. Updates on the development and work of the MPMO West will be available at http://mpmo.gc.ca/west/projects/216.

Tripartite Forum: The Tripartite Forum is described by Natural Resources Canada to be an opportunity for Canada, BC, and BC First Nations to share information, identify common interests, and align efforts on issues directly impacting Aboriginal participation in the development of energy infrastructure. While the scope of the forum's work will be determined by its participants, the following have been identified as possible issues of shared interest:

- Greater skills training and employment for First Nations;
- First Nations participation in business development opportunities from energy and natural resource projects; and,
- First Nations participation in marine and pipeline safety systems.

As I have repeatedly told both Minister Rickford and his predecessor, and indeed to anyone else who will listen, that while all this work may be helpful in bringing people together, ultimately the Crown has to reconcile with each of our Nations and work with the proper title and rights holders. They need to make binding agreements and our citizens have to ratify them. Again, you cannot short step reconciliation because you are looking for a quick "yes" to a project or projects and somehow avoid the hard work of decolonization and Nation rebuilding. If you do, there will be even more legal uncertainty.

The May 27, 2014 announcement is still, of course, very high level and is silent on a number of key details surrounding resources, process for establishing the Tripartite Forum, and mandates. I will provide updates as more information becomes available and as these two measures are implemented. I will also continue to inquire as to if/when the federal government will make a formal response to the Eyford Report and any future federal efforts to implement the other recommendations contained therein.

Marine Tanker and Pipeline Safety Announcements: As noted above, the Conservative government has promoted enhancing marine and pipeline safety as key components of its RRD Plan. Whether it actually will do so to the degree required by BC and First Nations remains to be seen. The regulations governing the transport of oil and/or gas would require review and amendments to meet the increased level of transport expected should Canada and industry successfully proceed with projected major energy infrastructure development.

In terms of marine safety, the federal government established a Tanker Safety Expert Panel which has provided recommendations to be implemented in a phased approach. Stemming from these recommendations, on May 13, 2014 Transport Canada Minister Lisa Raitt announced new measures to improve its safety regime and engage with First Nations.

Much public attention has been focused on if Canada would strengthen its polluter pay regime within Canada's domestic Ship-Source Oil Pollution fund. Many people were seeking changes which would see industry liable for the full cost of any clean up and remediation in the case of a spill. Minister Raitt's announcement signalled that the maximum allowable funding from the Ship-Source Oil Pollution fund would be increased from $161 million per spill to $400 million per spill. Some have speculated that this figure falls well short of the true cost of a major spill.

The announcement by Minister Raitt also included funding commitments for involving First Nations research and development, support for training to have First Nations participate in marine emergency response preparedness around their communities; however, no dollar figures have been assigned to the announcement. The announcement included a commitment to initiate four pilot projects in areas of high tanker traffic. While details are forth coming, Transport Canada has signalled its intention to partner with First Nations in Southern BC to design regionally specific emergency response plans.

In terms of pipeline safety, the federal government has sought to build its pipeline safety regime by recently announcing measures to strengthen its polluter pay policies and enhancing the regulatory control of the National Energy Board (NEB) over pipeline transport.

Announcements regarding changes to pipeline safety came on May 14, 2014, right on the heels of the Tanker Safety announcements. These pipeline safety announcements included the introduction of an absolute liability for industry (depending on the size of its operations) whereby the company would be responsible for response and clean up, up to a maximum of $1 billion for major oil pipelines with no requirement to prove fault. Companies will also be required match the $1 billion liability standard to deal with potential spills should they arise. Minister Rickford also acknowledged that First Nations will need to be engaged in efforts to revitalize pipeline safety.

As you can imagine, there has been much speculation that the recent announcements on marine and pipeline safety have been made to precede the federal government's announcement on its decision with respect to the Northern Gateway Project and to meet the province of BC's "Five Conditions for Heavy Oil Pipelines". It has also been speculated that these safety announcements could also be aimed to ease public concern over the Kinder Morgan Pipeline expansion proposed for Metro Vancouver.

At the end of the day there is of course no guarantee that a spill will not occur. For our Nations, understanding the regulations which are in place with respect to prevention, emergency response, and liability remain an important part of evaluating the benefits from and potential costs of these proposed projects. Many of us are not convinced and there will be legal challenges respecting various proposed projects. For their part Tsleil-Waututh Nation has already commenced a legal challenge to Kinder Morgan's plans.

Tsleil-Waututh Nation Legal Challenge Against Kinder Morgan: On May 2, 2014 the Tsleil-Waututh Nation hosted a press conference on the shores of the Burrard Inlet to announce that it would proceed with a legal challenge to the National Energy Board's (NEB) review of the proposed Kinder Morgan Trans Mountain pipeline and tanker projects. The proposed expansion would see tanker traffic triple in the Burrard Inlet. Tsleil-Waututh is supported by the City of Vancouver in its opposition and concern regarding the project. The legal challenge will be based on the allegation that the NEB lacks the legal authority to review the proposed pipeline expansion because the federal government failed to first consult with the Tsleil-Waututh on key decisions about the environmental assessment and regulatory review of the project. The case, if successful, could result in significant changes and clarity to the role of environmental review and assessment bodies in consultation and accommodation. I look forward to providing updates on this legal challenge as they become available.

Water

Report on Site C: On May 1, 2014 the Joint Review Panel for BC Hydro's proposed Site C project (the "Panel") submitted its report, recommendations, conclusions and rationale to the federal Minister of Environment and Environmental Assessment Office. The Panel presented findings on a number of issues but, unlike other Joint Review Panels, the Panel did not provide a recommendation on whether the Minister should approve or not approve the project. Instead, the Panel outlined recommendations on several key issues if the Minister were to approve the project. The Panel's findings were viewed as positive for those who oppose the project and who

have always maintained that the dam is not needed and would have significant adverse environmental impacts.

Firstly, the Panel's report clearly stated that "the proponent has not fully demonstrated the need for the project on the timetable set forth" suggesting that while there may be an energy need in the future and the project would produce the least greenhouse gases to meet this need, there was not enough research available to demonstrate certain energy demand now. Secondly, the Panel ruled that significant adverse effects would occur to fish habit and other species if the project proceeded as planned. The Panel also acknowledged that significant impacts to current uses and resources for traditional purposes by Aboriginal peoples would occur if the project proceeded, suggesting rightly, that the federal government has the onus to weigh the impacts to Aboriginal rights and title. The Panel's report included recommendations which noted the need for comprehensive cumulative impact studies which included past, present and future development on the area, suggesting the need for a shift in focus from project based assessment to area based assessment.

Despite these important findings, the Panel was ambiguous regarding a position on whether to approve the project or push BC Hydro to seek alternative options. As I have noted, based on the new regulations, the federal cabinet and the province have six months to respond to the report and make a decision on whether the project should proceed or not.

Water Governance: There are currently many changes occurring to the way water is governed both on and off reserve in BC, including the modernization of BC's Water Act (see below) to the federally enacted *Safe Drinking Water for First Nations Act*. In order to respond to the proposed changes and coordinate a collective strategy for water governance and water matters, the FNLC hosted a First Nations Right to Water Workshop last year in March 2013 which provided BC Chiefs with an opportunity to present their perspectives on a proposed "BC First Nations Water Rights Strategy". The strategy was subsequently endorsed at our BCAFN SCA on November 26, 2013. The strategy provides direction for the establishment of an inter-organization working group to continue to analyze and monitor developments with respect to water and seek means to ensure that First Nations rights were duly considered in any legislative changes to water. The technical leads of each organization have since attempted to support the development of an MOU with the provincial Ministry of Environment to ensure a positive working relationship around the issue of water. Work on the MOU continues and has been moving at an unfortunately slow rate. We do hope to have the MOU ready to sign in the next couple of months.

Provincial Water Sustainability Act: The new provincial *Water Sustainability Act* (WSA) received Royal Assent on May 29, 2014. In order to become law, the statute must first be authorized by the Lieutenant Governor in Council. A date for this has not been specified; however, it is expected to come into force in the spring of 2015. As previously reported the new statute will repeal and re-enact core elements of the *Water Act*, an act which has not been updated since 1909. The BC government has signalled that due to the size and range of the changes to the *Water Act*, they will implement a phased approach to enforcing the WSA starting with priority areas such as groundwater, water fees, and rentals.

The BCAFN, UBCIC and FNS have consistently sought to engage with the province throughout the development of the WSA to ensure that First Nations' rights and title are properly considered. While surface and groundwater is vested in the provincial Crown, this ownership is subject to Aboriginal rights and title protected under section 35 of the Constitution. In November of 2013, the BCAFN contracted Micha Menczer of the Arbutus Law Group to conduct a legal analysis on the legislative proposal for the *Water Sustainability Act.* This analysis was discussed at the BCAFN Special Chiefs Assembly last November. I outlined a number of key issues identified along with analysis from this legal review in my last quarterly report. To recap, the main concern arising from our legal analysis is that the legislative proposal for the WSA was lacking with respect to processes for joint decision making with First Nations and was silent on the legal duty to consult and accommodate where Aboriginal rights and title may be impacted. We submitted this legal analysis to the provincial Ministry of Environment along with analyses from UBCIC and FNS. While we are still working on a full analysis of the WSA, it appears that our concerns were not addressed in the final legislation.

The First Nations Fisheries Council (FNFC) also made its concerns with the WSA known in an April 17, 2014 letter to Environment Minister Mary Polak noting there are significant unresolved governance and jurisdiction issues regarding the WSA and that the government was assuming jurisdiction over resources that are subject to Aboriginal title and rights. The FNFC also asked the government to provide clear information to First Nations showing how First Nations' issues are addressed and incorporated and recommended a process of collaboration.

In short, despite leading us to believe they would, the government has made no comprehensive efforts to address First Nations' issues or enter into discussions prior to passing the bill. This is, once again, unfortunate, and will no doubt come back to haunt the province at some later date.

Now that the Bill has received Royal Assent, the province will be looking to develop the corresponding regulations to be utilized when the Act comes into force. The BCAFN will continue to update you on this work, and continue to push an MOU to address our issues with the legislation and the impacts it will have on First Nations in BC.

Fisheries

There is no doubt that some of the most complex and sensitive issues for our communities are those that relate to fish and fish management. Fish represent a critical element of our cultural and social wellbeing, while also being a source for income through commercial fisheries and a resource requiring sustainable practices which meet the standards of our Nations. Thankfully we have a number of First Nations organizations and advocates determined to support our Nations in this work.

In spring of this year, the First Nations Fisheries Council (FNFC) provided information forums for our Nations to discuss the 2012 changes to the *Fisheries Act* and ensuing Department of Fisheries and Oceans Canada (DFO) Fisheries Protection Program (FPP). One of the key concerns highlighted by attendees at these information forums was an MOU regarding fish and fish habitat that had been negotiated between DFO and the National Energy Board (NEB) in December 2013. The MOU outlines how NEB will now be responsible for assessment of the

potential impacts to fisheries from proposed NEB pipelines and power line applications as well as assessment of impacts to aquatic species at risk. The NEB will utilize provisions in the *Fisheries Act* and *Species at Risk Act* to make its assessment. The FNFC has contracted a legal review of these changes and distributed information through the FNFC list serve. For more information please contact the FNFC or view their website at www.fnfisheriescouncil.ca.

Where aquaculture is concerned we can all agree on the need for necessary protection of wild salmon, transparent science, and implementation of Cohen recommendations. The BC Wild Salmon Alliance is a coalition of First Nations with the goal of supporting First Nations communities in their efforts to advocate for the protection and well-being of wild salmon runs and reproduction areas. One such effort is to oppose the announcement last February by DFO to lift the 2011 moratorium on fish farm expansion. The moratorium was put in place for the BC Coast during the Cohen Commission of Inquiry. It has now been two years since the release of the Cohen Commission of Inquiry into the decline of Sockeye Salmon in the Fraser River. That there has yet to be an official government response or action plan on the recommendations is a source of great frustration for First Nations. The Commission for Environmental Cooperation (CEC), an entity established under the North American Free Trade Agreement, has recently joined calls for a response to the Cohen Commission Recommendations. The CEC oversees the enforcement of environmental laws and standards for signatory Nations. CEC signalled its support in response to petitions from the Pacific Coast Wild Salmon Society and Kwikwasu'tinuxw Haxwa'mis First Nations as well as a number of supporters in the U.S. including the Center for Biological Diversity and Pacific Coast Federation of Fishermen's Associations.

Commercial Roe Herring Fishery: Due to herring declines along the coast of Haida Gwaii, the Central Coast, and the West Coast of Vancouver Island, these three areas have been closed to commercial fishing for herring roe since 2003, 2006, and 2008 respectively. Despite this, it came as a surprise on December 23, 2013 when the Minister of DFO, Gail Shea, announced that the three rebuilding areas would be re-opened to commercial fisheries in 2014. Media outlets reported that this decision was made contrary to recommendations from within DFO stating that these areas had not reached sufficient levels to support a sustainable herring fishery. First Nations had and continue to have a unique connection with and understanding of wildlife and habitat in their traditional territories. Where decisions impacting the health of fish are concerned, not withstanding aboriginal rights to fish, it is simply good practice to include the traditional knowledge of our First Nations communities.

Each of the impacted First Nations along the coast of Haida Gwaii, the central coast, and the west coast of Vancouver Island has actively opposed the opening of the roe-herring fisheries. On February 21, 2014 the Nuu-chah-nulth Tribal Council were successful in winning a federal court injunction against re-opening the fishery on the West Coast of Vancouver Island. The Haida Nation filed a Notice of Application for a judicial review to DFO's decision; however, on March 17, 2014, the Haida Council successfully negotiated a verbal agreement with the Herring Industry Advisory Board (HIAB) to halt a commercial fishery and an Aboriginal spawn-on-kelp fisheries for one year.

In early April, tensions escalated in the central coast when commercial fishing boats were asked to leave the Kitasu Bay by Kitasoo/Xaixais hereditary leaders. DFO agreed to keep commercial vessels outside the designated area. Nations along the central coast have advocated for a precautionary management regime where there is a "tiered" system of cut-offs, a reduction in exploitation rates, and call for at least two successive years of good herring spawn before supporting the re-opening of the roe-herring fishery.

One of the challenging aspects of this situation is recognizing the financial strain put on commercial fishermen who have invested in roe herring in those areas, based on DFO's recommendation, who now stand to lose a significant source of employment and income. Fifty fishermen have applied and paid for fishing licences on the west coast of Vancouver Island for 2014 and may have to relocate; an unnecessary tension created by poor public policy decisions.

Forestry

In April 2014, the Ministry of Forests, Lands, and Natural Resource Operations released a discussion paper on potential changes to the *Forest Act* that would allow, on an invitation basis, the conversion of volume-based forest tenures to area-based forest tenures. A forest tenure, or license, is an agreement between the Province and a person, legal entity, or company regarding obligations where harvesting rights are provided, this includes stumpage fees, annual rent, and reforesting. Volume-based tenures typically allow multiple tenure holders to harvest in the same timber supply area. In each timber supply area there is a designated allowable annual cut or maximum harvest rate. Area-based tenure systems are generally used for tree farm licenses, community forest agreements, woodlots, and First Nation woodland licenses. Through area-based tenure systems, the tenure holder has near-exclusive rights to harvest timber within a specific area and therefore forest sector companies could have significantly increased control over land base under this system. In theory, this provides incentive to utilize sustainable long-term practices; however, concerns also exist that area-based tenure licenses could cause complications for addressing the land question.

The engagement period ran a mere two months, from April 1 – May 30, 2014, and is now closed. This two month engagement process included public meetings and three First Nations engagement sessions which occurred in Prince George (May 8), Kamloops (May 14), and Nanaimo (May 20). The First Nations Forestry Council co-hosted these sessions; it was, however, understood that these sessions would not be used in an attempt to meet legal requirements to consult and accommodate. The Province has stated that consultation and accommodation would be triggered when a company applied for the transfer from volume based to area based tenure.

Jim Snetsninger, a registered professional forester, was assigned as the project manager. He will report to government on the outcomes of the engagement process. A final report will be submitted to government by June 30, 2014. A discussion paper as well as stakeholder submissions are available for viewing at http://engage.gov.bc.ca/foresttenures.

It should be noted that this is not the first time that the Province has sought regulatory reform with respect to volume-based tenures. On February 20, 2013 the BC Minister of Forests, Lands,

and Natural Resource Operations introduced Bill 8: *Miscellaneous Statutes Amendment Act, 2013* which was rejected by First Nations due to the lack of consultation and engagement regarding the proposal. The FNLC received a briefing from the First Nations Forestry Council at the last FNLC executive meeting and will look to support them in their work to analyze any future legislative proposal, keep our Nations informed, and ensure Aboriginal rights and title, including treaty rights, are well considered in any legislative change.

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*

Federal First Nations Education Legislation

Education remains the priority of the National AFN and at the BCAFN based on the direction of the Chiefs. There has been, as most of you are very much aware, considerable debate of late concerning the federal government's proposed, *Bill C-33: An Act to establish a framework to enable First Nations Control of Elementary and Secondary Education and to provide for related funding and to make related amendments to the Indian Act and consequential amendments to other Acts*, (the so called *First Nations Control of First Nations Education Act),* that was introduced at first reading in the House of Commons by AANDC Minister Valcourt on April 10. In this latest proposal the government has attempted to incorporate the five conditions as set out in AFN Resolution 21/2013. Unfortunately it does not. As far as I am aware there was no First Nations involvement in the drafting of the Bill. In fact, the Bill remains for the most part substantially unchanged from the very problematic draft legislative proposal, *Working Together for First Nation Students: A Proposal for a Bill on First Nation Education*, that Canada released on October 22, 2013. The Bill still does not address at all (or if it does, not substantially), any of the key issues that the First Nations Education Steering Committee (FNESC) identified in numerous letters to the Minister, nor does it contain any of the solutions that we put forth; either before or after the current iteration released on April 10th.

For our part in British Columbia, First Nations are already well on our way to First Nations control of First Nations education and have collectively developed and implemented relevant educational standards and programs that are formally recognized in existing agreements with the province and Canada and supported by federal and provincial legislation as well as First Nation laws. Accordingly, our biggest concern, is that any new federal legislation does not negatively impact or slow down this work but rather supports and enhances it. We will continue to ensure this to the extent we can.

There are numerous issues with Bill C-33, but for me one of the most problematic aspects of the Bill is that it does not contemplate the evolution of First Nation governance beyond the *Indian Act*. In fact, whether intentional or not, Bill C-33 actually embeds in legislation what today is the existing federal education policy where local *Indian Act* bands have local responsibility for schools, but the ultimate control remains with the federal bureaucracy and the Minister. This essentially entrenches a system that is utterly failing our kids. Ensuring the best for our children is our real concern, and Bill C-33 does not go far enough in reaching that goal. In fact it could set us back. The bill is fundamentally flawed and will need to be substantially revised or withdrawn and rewritten. That said, it was an attempt at reform and reform is needed. Not so much in BC but elsewhere in the country where there are no regional education initiatives. Also the $1.9 billion of new money attached to the Bill by the Conservatives is truly needed and needed yesterday.

On May 6, 2014, FNESC held a province-wide meeting bringing together educators, education professionals, Chiefs and councillors to have an in-depth discussion on Bill C-33 and develop a BC-position on the legislation. Unfortunately, I was not able to attend this meeting as I was called to an emergency AFN Executive Meeting as a result of the resignation of our National Chief, but I did hear from FNESC and from BCAFN staff that did attend that the meeting resulted in a strong dialogue and a unified position that this Bill cannot be allowed to proceed as-is, and we must make every effort to have the Bill substantially amended or withdrawn and engage in an exercise of true co-development with the federal government.

As a result of the resignation of Shawn A-in-chut Atleo on May 2nd, which Shawn himself tied to the controversy brewing over the education initiative and not wanting to be a lightening rod in the debate, Minister Valcourt rose in the House of Commons on May 5th and announced that Bill C-33 would be put 'on hold' pending clarification of the position of the AFN on this legislation. It was my hope that with the Bill being put on hold, we would have the opportunity to get it right. And if we cannot help get it right with respect to all First Nations across Canada then at the very least ensure it does not hurt our BC education initiatives but rather supports them.

On May 5th and 6th, the AFN Executive Committee met in Ottawa to discuss the resignation of the National Chief and Bill C-33 and called for a Special Chiefs' Assembly for May 27th. Prior to the SCA, on May 24th and 25th the AFN Executive Committee met again and decided that it was our role as elected regional leaders to suggest a collective way forward which led us to drafting two resolutions to present to the Chiefs-in-Assembly for discussion on the two agenda items; the national chief election and education. After much debate and with input from all Regional Chiefs, the two draft resolutions were unanimously supported by the AFN Executive as recommendations to put before the Chiefs on May 27 for their consideration.

The draft resolution the Executive presented to the Chiefs in Assembly on education was strategic. It reaffirmed support for AFN Resolution 21/2013, passed at the December 2013 SCA in Gatineau, and the "five conditions" to achieve success for First Nations children, and called upon the federal government to engage in an honourable process to substantially amend or withdraw Bill C-33 and co-develop a renewed bill that recognized and supported regional

diversity and First Nations control of First Nations education. The resolution also called on Canada to solidly commit to stable needs-based funding that is necessary to improve student outcomes, including ensuring that language and cultural learning (including immersion schools) and early learners is fully supported. The resolution also called on the federal government to ensure that this funding would flow to First Nations immediately (not in 2016 as planned) and would not be contingent on Bill C-33. This is particularly important for BC where we already have legislation and agreements in place that would benefit from more resources now. Finally, the draft resolution on education also put the onus on Chiefs and First Nations to commit to bringing their own solutions to the table and providing their regional perspectives to develop a plan moving forward to meet the conditions of success.

Prior to the SCA, the BC AFN held a BC caucus in Ottawa on May 26th. This was a very productive and positive session as we had an opportunity to hear from all our BC caucus in attendance, and we further solidified a collective BC approach to addressing the two items on the agenda heading into the SCA the following day. As all of the Regional Chiefs were tasked to do, I presented the two draft resolutions from the Executive Committee to our caucus and we had a very productive discussion about trying to find a way forward that could encompass the diversity of opinions from across the country – to reach our hand out to other regions and forge a path forward together. The BC Chiefs and proxies in attendance, wanting to demonstrate our unity as a region on the issue of education, asked me to move the education resolution from the floor of, the SCA (which I was able to do as I carried the proxy of Chief Janet Webster from Lytton First Nation). We were also prepared as a region to either move or second the resolution regarding the process for the National Chief election (see below).

At our caucus we also agreed to press to have the issue of education to be placed first on the agenda. As Matthew Louie, proxy for Cowichan Tribes, so eloquently put it to the Chiefs-in-Assembly, “We need to put our children before our politics”. At the SCA, after some back-and-forth, the Chiefs-in-Assembly agreed to move education as the first item on the agenda and opted to insert a discussion on the “Confederacy of Nations” into the agenda between education and the election for National Chief.

When I rose to move and then speak to the education resolution as proxy for Chief Janet Webster, I was met with some hostility from delegates from other regions and, at the direction of the Chiefs-in-Assembly, the Assembly was adjourned for an hour and a half so that Regions could caucus to discuss their position on the education resolution. It was made clear to me after the SCA that a number of the regions had not been briefed by their Regional Chiefs with respect to the education resolution and how it came about; neither before the SCA or during the caucus. Whether deliberate or not this was unfortunate given the resulting shenanigans on the floor and the eventual passing of a weaker and less strategic resolution later in the day. At our BC caucus, we once-again confirmed our support for the draft resolution and the onus that it placed on both the federal government and on ourselves to provide our own solutions.

When we reconvened after lunch the delegation from Quebec/Labrador put forth a simple and clear statement of their position on Bill C-33:

> *Canada must withdraw Bill C-33 and engage in an honourable process with First Nations that recognizes and supports regional and local diversity leading to true First Nation control of education based on our responsibilities and inherent Aboriginal and Treaty rights.*

For their part and for whatever reason, political or not, the First Nations from Ontario and Manitoba outright rejected the draft resolution, and made no attempts to suggest "friendly amendments" to it. Recognizing that we were not going to reach consensus or have any useful discussion on the resolution, and recognizing that the Quebec/Labrador statement essentially encompassed our BC position, I suggested that I would withdraw the resolution if there was unanimity of the entire Assembly on the statement from Quebec/Labrador. The Chiefs-in-Assembly indicated where unanimous in their support for that statement, so I withdrew the resolution proposed by the Executive.

Discussion continued on education throughout much of the remainder of the day with the Chiefs from Ontario in attendance deciding to move their own resolution on education, incorporating "whereas clauses" from the Executive Committee's draft resolution, but with significant changes to the directed actions. This resolution stated outright rejection of Bill C-33 with no consideration for any amendments (however unlikely given this government), and did not consider the need for governance reform and what replaces the *Indian Act.* The resolution did, however, direct the federal government to negotiate a new fiscal framework and new fiscal relationship for First Nations education systems and to ensure that the $1.9 billion and 4.5% escalator committed to in the 2014 federal budget be provided to First Nations immediately. In my opinion, this resolution does not move us further ahead or provide any kind of direction for First Nations to start to transition away from governance under the *Indian Act* to true First Nations control over First Nations Education supported by an appropriate institutional framework. Nevertheless the Ontario resolution was passed at the SCA, and in respect for the other regions pushing for it and given we don't support Bill C-33 in its current form, our BC caucus chose to abstain.

Following the passage of the resolution the Minister's office was quick to respond in a statement saying that, "this legislation will not proceed without the support of the AFN, and we have been clear that we will not invest new money in an education system that does not serve the best interests of First Nations children; funding will only follow real education reforms." Presumably this means the $1.9 billion of new money the Conservatives tied to the Bill will, in due course, be gone as well. However, more recently the Minister has been making overtures that perhaps the Bill is not dead. We are not sure.

There is no question, however, that this simplistic "kill the Bill" tactic taken by some chiefs in other regions and reflected in the resolution passed at the SCA is the wrong approach as it has now given the federal government an excuse not to work with us to improve education outcomes for our kids and has put at risk the $1.9 billion that has already been set aside for

First Nations education. While this amount of money is still well under what is actually required, to have it off the table is a tragedy. In any case, we will monitor the situation and will continue to advance our interests even if it means now shaming the government into moving forward with new monies and appropriate legislation and not simply withdrawing and giving up after having essentially blamed the victims. We will also need to be strong with our colleagues across the country.

On that note, I would like to take this opportunity to thank all of those BC Chiefs and proxies that attended the SCA and engaged in the education debate and to all of those Chiefs that sent proxies on their behalf. Given the short notice of this meeting and the distance that many of us had to travel, there was still a strong BC showing with 60 Chiefs and proxies. I have also heard from many of you who were not able to attend the SCA that you watched it streamed live on the Internet. I would like to thank you all for your well wishes and for the support that you have shown me and our BC leadership. The education of our kids and the reform of our education systems is far too important to become a political football within the national AFN and for me demonstrates the need for governance reform to our national organization as well. That said, I hope that many of you will be able to attend the AFN AGA in Halifax so that we will have a strong BC caucus when we will make important decisions on the future of our kids, the AFN structure and on the process and place for electing the next National Chief.

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."

BC First Nations Health Care Delivery

With the completion of the health services transfer from Health Canada to the First Nations Health Authority (FNHA), work is now underway on the transformation phase of health care to BC First Nations. During the transformation, underpinned by the seven health directives, there will be a focus on community-level or multi-community level health and wellness planning. The community-driven focus will see the plans created to address community wellness visions and priorities. The plans will be used to inform future regional health and wellness plans. In turn, they will guide the FNHA, First Nations Health Council (FNHC) and First Nations Health Directors Association (FNHDA) planning including future interim and multi-year health plans and strategic plans. This transformation stage includes analyzing, upgrading, and re-orienting current First Nation and Inuit Health programs and services to better meet the needs of BC First Nations. This process will also include identifying opportunities for stronger coordination with provincial programs and services.

Regional caucus gatherings were held in each of the five regions (Vancouver Coastal, Vancouver Island, Fraser, the North and the Interior) between mid-March and the end of April to further work with communities. On April 1, 2014, five appointees took their seats at the FNHC table for three year terms that end March 31, 2017. Marion Colleen Erickson, Nathan Matthew, Lydia Hwitsum, Helen Joe and Jason Calla were appointed or re-appointed. The remaining four members, Madeleine Dion-Stout, Dr. Elizabeth Whynot, Jim Morrison and Pierre Leduc have terms running until March 31, 2016. The FNHC staggers its terms to ensure smooth transitions, appropriate orientation, continuity and corporate memory.

On National Aboriginal Day, June 21, the FNHA will sponsor health events around the province and is expecting almost 21,000 people to participate. The FNHA hopes to transform Aboriginal Day into a Day of Wellness. This year, there are 99 events planned including horse treks, back-to-land medicine gatherings, Elders story-telling, traditional foods, canoe races, a pow-wow, 10 kilometre races, health screening and more. The FNHA website has a full guide to the events and their locations available at http://www.fnha.ca/about/news-and-events/events/aboriginal-day-of-wellness.

Violence Against Aboriginal Women and Girls

RCMP Report: Missing and Murdered Aboriginal Women: A National Operational Overview:

On May 16, 2014 the RCMP released their national operational overview on missing and murdered Aboriginal women. The report was initiated in late 2013 and carried out with the assistance of Statistics Canada and police agencies across the country. The results of the study demonstrate that the number of missing and murdered women is higher than public estimates at an alarming total of 1,181 – this is a true Canadian tragedy. Clearly these numbers represent a crisis for this country requiring commitment to action from police forces, our First Nations citizens and governments, federal and provincial governments, and Canadians more broadly.

The RCMP report provides analysis of past cases between 1980 and 2012, which will assist in profiling perpetrators and understanding certain risk factors of murdered Aboriginal females, and therefore contribute to efforts to decrease rate of instances of violence against Aboriginal women and girls. Unsurprisingly, the impacts of unemployment and poverty can be seen in categories, victim and perpetrators. In terms of evaluating existing efforts and processes for ensuring the safety of aboriginal women and girls, the report found that the solve rate for homicides were roughly the same between Aboriginal and non-Aboriginal cases; however, Aboriginal females represented 16% of all homicide cases though they are only 4.3% of Canada's overall female population. In terms of next steps, the RCMP report announced that funds will be directed to update the National Missing Persons Strategy which will include providing all information from the report to different provincial or municipal police forces. Other identified steps include better data management, focused prevention efforts, and increased public awareness. The report in full form is available at the RCMP website, http://www.rcmp-grc.gc.ca/pubs/mmaw-faapd-eng.pdf.

The release of the report further highlights the ongoing calls for a national public inquiry into violence against Aboriginal women and girls. As noted later in this report, James Anaya, the UN Special Rapporteur on the Rights of Indigenous Peoples also supported the idea of a

coordinated approach in tackling this issue. Nations, indeed all societies, are judged by how well they treat their most vulnerable and Canada is no different. While the government's focus on punishing the perpetrators is important, the RCM Police are not going to solve the problem. Rather as a country we need to, once and for all, get at the root causes – poverty, inequality and marginalization – symptomatic of a far greater social malaise that can only be addressed through true reconciliation, addressing the underlying reality of the devastating colonial legacy. We can and must do better.

FNLC MOU Signing with Minister's Advisory Council on Aboriginal Women: On June 13, 2014 the First Nations Leadership Council as well as the Metis Nation British Columbia will sign a Memorandum of Understanding with the Province of BC through the Minister's Advisory Council on Aboriginal Women that will confirm a shared commitment to end violence against Aboriginal women and girls. The Minister's Advisory Council on Aboriginal Women was created in 2011 and is chaired by Wendy Grant-John. The provincial government will be providing $400,000 to the 'Giving Voice' initiative, which is intended to provide resources for communities to take action on this issue. The funding follows the release of the Provincial Domestic Violence Plan, a three-year initiative, which includes $2 million specifically for the development of programs for Aboriginal women, men and children affected by domestic violence.

National Truth and Reconciliation Commission (TRC)

The TRC's seven national events have now concluded with the final gathering held in Edmonton at the end of March. While the TRC's mandate has been extended until June 30, 2015, plans are already underway for the future of the materials gathered during the national events and statement gathering. It has been announced that the stories shared by thousands of former residential school students in video and audio recordings will be housed at the University of Manitoba after it was chosen to host a National Research Centre on Residential Schools. Archival documents, photographs, art and artifacts presented at reconciliation events and research collected and prepared by the TRC will also be housed at the centre. The centre will be located at the University of Manitoba's Fort Garry campus in south Winnipeg.

Children and Families

After withdrawing funding from the First Nations Child and Family Wellness Council (FNCFWC) and the 15 Indigenous Approaches initiatives that were working on community-based services in communities throughout the province, the future of the child and family portfolio remains somewhat cloudy. The provincial Ministry of Children and Family Development (MCFD) did replace the Indigenous Approaches funding with a new one-year program known as Aboriginal Services Innovations (ASI). In an original call for proposals, MCFD focused on funding projects for youth at risk and approved 32 submissions with various levels of funding although the total funding envelope is not yet known. Many of those funded were former Indigenous Approaches organizations. MCFD also followed up with a second round of applications for early childhood funding, but as of yet there have been no announcements regarding the successful applications or the amounts that would be provided. While MCFD did keep its commitment to continued financing equivalent to the Indigenous Approaches funding for the 2014/15 fiscal year, this was still done without consulting First Nations and only on, at this point, a one year, one-time basis.

Because the FNCFWC was established through resolution by the Chiefs-in-Assembly, it will fall on the Chiefs-in-Assembly, not MCFD, to determine whether FNCFWC continues to exist. To facilitate future discussion and progress, the FNCFWC prepared resolutions for both the First Nations Summit and Union of BC Indian Chiefs gatherings held in March/April that calls for an All-Chiefs meeting to discuss the future of the child and family portfolio. These resolutions were passed by both organizations. I understand that the FNCFWC will look to pass a mirror resolution at our upcoming BCAFN AGM in September. On May 5th, the First Nations Leadership Council met with MCFD Minister Stephanie Cadieux and expressed our concern with the decision to pull funding from Indigenous Approaches. We also asked if/when Recommendation #1 from the Representative of Children and Youth Special Report: *When Talk Trumped Service: A Decade of Lost Opportunity for Aboriginal Children and Youth in BC*, which recommended "[t]hat the government of British Columbia, with the leadership of the Attorney General, develop an ***explicit*** policy for negotiation of jurisdictional transfer and exercise of governmental powers over child welfare" would be addressed. While the Minister noted that they were looking into this, there was no real commitment on this issue. As a follow up to the resolutions passed at the FNS and UBCIC meetings regarding an All-Chiefs meeting to discuss child and family issues, the FNLC requested some financial support from MCFD to host such a meeting. Minister Cadieux noted to us that this was a decision that had to be made by the BC Cabinet, but she committed to bringing this request forward on our behalf. The FNLC will be writing a follow up letter to Minister Cadieux and the BC Cabinet to make this ask official.

As we all know, First Nations children continue to be vastly over-represented in the child welfare system (comprising more than 50 per cent of the children in care in BC but only eight per cent of the child population) and the BCAFN, the FNS and UBCIC will continue to advocate for better processes, increased capacity, culturally-appropriate approaches and other changes to the system that will better serve our children, families and communities.

PART TWO: RELATED ACTIVITIES

Resignation of National Chief

On May 2, during a press conference in Ottawa, Shawn A-in-chut Atleo resigned from his position as AFN National Chief. Like many of you, I was shocked and saddened by the unexpected announcement. A-in-chut was a tireless advocate for improved educational outcomes for First Nations young people. This was the case even in his last action as National Chief, where he stated he would not be a "lightning rod" in the debate over Bill C-33: *First Nations Control of First Nations Act*. At our BC Caucus session on Ottawa during the May 27, 2014 SCA many of our delegates reflected on their appreciation and respect for A-in-chut and signalled support for a honouring ceremony to be held in the near future.

We are in a tremendous period of change as Nations. A-in-chut represented a much-required pragmatism in our efforts to see tangible on the ground results in our communities. I have no doubt that A-in-chut will continue to be an advocate for our people. I wish him all the best in

his future endeavours and thank him for his service to our Peoples and to the Assembly of First Nations.

According to the Charter of the AFN, when the National Chief resigns, the rest of the Executive Committee shall assume his role and function until such time as other arrangements are made by the Chiefs-in-Assembly. The timing of the National Chief election will be discussed and a decision will be made at the AGA in Halifax on July 15-17, 2014. The AFN Executive did unanimously decide to appoint Ghislain Picard, Regional Chief from Quebec and Labrador, as our interim spokesperson.

Confederacy of Nations: The AFN Executive met on May 5th and 6th in Ottawa. At that meeting, the Executive also discussed a request via letter from the Chiefs of Ontario to hold a meeting of the Confederacy of Nations on May 14th to dialogue on Bill C-33 – the initial letter was received prior to the resignation of the National Chief. The Executive Committee, as a whole, decided that while we supported the Chiefs of Ontario convening a meeting to discuss Bill C-33, we felt that since the Confederacy of Nations had not met since 2004, there was insufficient time for each region to be able to carry out the appropriate internal processes required in the AFN Charter to select their representatives. In any case it was felt it was far more important to hold a Special Chiefs' Assembly as soon as possible since the Confederacy of Nations has no ultimate decision-making authority – and is, of course, accountable to the Chiefs-in-Assembly (as are all other principal organs within the AFN Charter). The Executive Committee directed the Acting CEO, Peter Dinsdale, to write a letter stating this decision to the Chiefs of Ontario. This letter was sent on May 9th.

In the AFN Charter the "Confederacy of Nations" is one of the principal organs of the AFN, is accountable to the Chiefs-in-Assembly, and was intended to govern the AFN between Assemblies. The Confederacy of Nations has not been operational since 2004, and in 2005 the AFN Renewal Commission, after extensive research and countless interviews, recommended that it be abolished as there were questions as to whether it was necessary given that it shared the same type of authority and decision-making powers as the First Nations-in-Assembly and often worked at cross-purposes, which "led the AFN membership to conclude that the Confederacy and its meetings are unnecessary" (p. 44 *AFN Renewal Commission Report 2005: A Treaty Among Ourselves*). The Chiefs-in-Assembly passed resolution 21/2007 at the 2007 AFN AGA, directing the AFN to implement the recommendations of the Renewal Commission.

On May 14th, the Chiefs of Ontario proceeded with their meeting on Bill C-33, and were joined at this meeting by several Chiefs from Quebec and Manitoba, as well as a small number of Chiefs from other regions across the country. The AFN does not have an exact list of who attended this meeting, however it has generally been reported there were approximately 49 Chiefs or proxies. Attendees declared themselves the "Confederacy of Nations" and claimed that the meeting was a Confederacy of Nations meeting with all of the authority that the Confederacy has under the AFN Charter. No Nations from British Columbia were in attendance at this meeting.

The composition of the Confederacy of Nations is one representative per region, plus one additional representative for every 10,000 First Nations citizens within that region (Article 11, AFN Charter). For a duly convened meeting of the Confederacy of Nations to take place, the following elements are necessary:

1. A "special session" of the Confederacy of Nations must be convened by the National Chief on his/her own initiative, or at the request of a quorum of the duly selected members of the Confederacy of Nations or at the request of the Executive Committee (Article 14);

2. The Confederacy of Nations representatives may be elected or appointed and removed by the Chiefs of each region at a meeting convened for that purpose (Article 13); and

3. Quorum for a Confederacy of Nations meeting is fifty percent (50%) of the participating representatives and fifty percent (50%) of the participating regions (Article 15).

It is my view for the reasons discussed below that the meeting that took place in Ottawa on May 14th was not a duly convened Confederacy of Nations meeting.

As set out above, neither the National Chief nor the AFN Executive Committee agreed to convene a special session of the Confederacy of Nations on May 14th. Notwithstanding that this was the decision of the Executive Committee, given that the Confederacy has been dormant for 10 years, reinvigorating the Confederacy of Nations, should in my opinion require going back to the Chiefs-in-Assembly for direction. Whether the AFN Executive would even have the authority to call a meeting of the Confederacy without this direction given the amount of time that has passed since the last meeting must be considered.
Since the Executive Committee did not agree to convene a Confederacy of Nations meeting, BC and most other regions did not host proper meetings to duly appoint representatives in accordance with the AFN Charter. In fact, even if the May 14th meeting had been a duly called Confederacy (with proper notice etc.) there is doubt as to whether there were five regions at this meeting (which is the required 50% for quorum) who had duly appointed representatives present with the authority to speak on behalf of their region.

For the purposes of representation and quorum, the AFN Executive Committee is required to maintain a record of the First Nations populations of each region. The AFN has not kept these records for some years; thus prior to the meeting on May 14, there was no knowledge of what would actually constitute quorum in terms of the number of representatives from each region in the Confederacy of Nations. For these reasons, we can conclude that this meeting on May 14th was not a duly convened Confederacy of Nations meeting.

Notwithstanding all of these clear Charter violations and accountability issues, the Chiefs present at the meeting on May 14th declared themselves to be a "Confederacy of Nations" with the power and authority to act as the governing body of the AFN. This despite the fact that a

number of regions, including British Columbia, were not represented. It is my view that if the Chiefs-in-Assembly were to collectively decide to reinvigorate the Confederacy of Nations that we follow the due process that is described in our AFN Charter and provide each region with the appropriate time and ability to identify their representatives.

We discussed the Confederacy of Nations at our BC Caucus meeting at the May 27th SCA, and our BC Caucus concluded that if this "organ" of the AFN were to be reinvigorated, it had to be done so at the direction of the Chiefs-in-Assembly through a resolution after having had a thorough discussion at a Chiefs' Assembly. A discussion on the restructuring of the AFN is scheduled for the upcoming AGA in Halifax and the Confederacy of Nations will be included in that discussion.

At an AFN Executive meeting on June 5th, an Executive resolution was presented to call a Confederacy of Nations meeting for July 14th in Halifax – the day before the AFN AGA. I, along with the Regional Chiefs from the Atlantic, voted against this resolution. I explained that it was our BC position that any attempt to revitalize the Confederacy of Nations, should be discussed by the Chiefs-in-Assembly, as it was they who chose to discontinue the Confederacy of Nations in favour of having an annual Special Chiefs' Assembly in December. The other Regional Chiefs did not agree and thus the resolution was passed. While not adverse to the idea of reinvigorating the Confederacy of Nations, I continue to advocate that we must be seen to govern in accordance with our rules and in accordance with our AFN Charter – to ensure our own accountability, transparency and ultimately that all voices are heard. If the Chiefs-in-Assembly ultimately pass a resolution at our July AGA in Halifax that confirms the reinvigoration of the Confederacy of Nations, then I know our BC leadership will work to ensure that our region is appropriately represented.

Assembly of First Nations Annual General Assembly – July 15-17, 2014, Halifax, Nova Scotia
The Assembly of First Nations 35th Annual General Assembly will take place on July 15-17, 2014 in traditional Mi'kmaq territory in Halifax, Nova Scotia. I have been speaking with Regional Chief Morley Googoo from this region and it sounds like the Mi'kmaq have a wonderful celebration in store for us with music, a parade of Nations (all delegates are encouraged to bring their traditional regalia) and, of course, a seafood feast. Not only will this AGA be a celebration of culture, I feel that this will be an important meeting for the AFN generally.

As noted previously in the Improved Education section, following much debate and discussion at the May 27th AFN SCA, a resolution was passed which rejected Bill C-33: *First Nations Control of First Nations Education Act* with our BC Delegation abstaining from the vote. Due to the length of discussion on education and the incorporation of the Confederacy of Nations onto the agenda, the Chiefs-in-Assembly were unable to address the issue of the election of the National Chief. This discussion will therefore be on the agenda at this AGA. It also expected that the Confederacy of Nations and the re-structuring of the AFN will be a point of discussion. A draft agenda for the AGA is posted on the AFN website. Again, this AFN AGA will be an important meeting and I hope that you will be able to attend in Halifax. If for some reason you are unable to attend, please consider sending a proxy to represent the interests of your Nation. Do not hesitate to contact the BCAFN Office at any time for assistance or with any questions or

concerns with regard to proxies or the upcoming AGA. Also, if you have any thoughts or comments that you wish to share regarding the Confederacy of Nations, please feel free to contact me directly at: regionalchief@bcafn.ca.

BC Cabinet and Premier – All Chiefs Meeting

At our BCAFN Annual General Meeting on June 26-27, 2013, the Chiefs-in-Assembly passed Resolution 03 (p) – 2013 Support for BCAFN to Engage Immediately with Premier Clark and the New BC Cabinet. The Premier has agreed to a meeting between herself, her Cabinet colleagues and all BC Chiefs. The date for the BC Cabinet and Premier All Chiefs Meeting has been set for September 11, 2014 (the day after our BCAFN AGM – September 9-10) to be held in Vancouver. Staff from each of the three FNLC organizations is currently engaged with MARR staff and officials from the Premier's office in the development of a draft agenda for that meeting. It is expected that this agenda will be finalized in early July. More information regarding this meeting, as it becomes available, will be posted on our BCAFN website.

Report of the UN Special Rapporteur on the state of Indigenous Peoples in Canada

On May 12, 2014, following his visit to Canada and after conducting hearings and receiving submissions last October, UN Special Rapporteur on the Rights of Indigenous Peoples, Dr. James Anaya, released his report on *The situation of indigenous peoples in Canada* (the "Report"). The Report highlighted 16 recommendations covering topics such as resource development, treaty negotiation and claims processes, self-government, missing women and girls, truth and reconciliation, and social and economic conditions. Specific mention was made of the need to extend the mandate of the Truth and Reconciliation Commission, support for a national inquiry into the issue of murdered and missing Aboriginal women and girls, and the need to remove barriers to effective self-government such as the *Indian Act.*

Many if not all of the recommendations and conclusions articulated by Dr. Anaya further highlight the urgent need for a shift towards policies based on reconciliation that can translate to meaningful benefits on the ground in our communities. While our communities continue to build and re-build our Nations, the pace of change is still far too slow. Dr. Anaya reports that since the last UN Special Rapporteur report on Canada, over 10 years ago, the well-being gap between Aboriginal and non-Aboriginal peoples has not narrowed, land claims remain persistently unresolved, Indigenous women and girls remain vulnerable to abuse, and overall there are high levels of distrust among Indigenous peoples towards both provincial and federal governments.

Dr. Anaya's report represents another important wake up call for not only the Crown but also for Canadians generally. We all must uphold the integrity of our country's international standing by calling on the Crown to initiate a much needed shift in policy. It is time to amend policies and laws to reflect and set the stage for true reconciliation, under an overarching framework applicable to all federal departments and agencies. In the words of Dr. Anaya, "it is necessary for Canada to arrive at a common understanding with indigenous peoples of objectives and goals that are based on full respect for their constitutional, treaty, and internationally-recognized rights." For a full version of the Report please see Dr. James Anaya's website at http://unsr.jamesanaya.org/index.php.

Canada-China Foreign Investment Promotion and Protection Agreement (FIPPA)
In 2013, the Hupacasath First Nation filed for judicial review of the federal government's decision to enter into the Canada-China FIPPA and sought a declaration from the Federal Court of Canada that Canada was required to engage in a process of consultation and accommodation with First Nations prior to ratifying or taking other steps that will bind Canada under the FIPPA. The Hupacasath claimed that the FIPPA will have a profound impact on their inherent Aboriginal title and rights, and their legal challenge was supported by a number of Nations both here in BC and across the country. On August 26, 2013, the Federal Court delivered its decision dismissing the application on the grounds that there was no causal link or potential adverse impacts on Aboriginal rights.

The Hupacasath First Nation appealed the Federal Court's ruling on the judicial review and the hearing took place on June 10, 2014. In particular, the Hupacasath First Nation is concerned that the Investor State Arbitration (ISA) clause in the agreement will allow foreign companies to sue Canada for anything that interferes with their ability to make a profit, including First Nation title and rights, and that the ISA will undermine First Nations' ability to protect their lands and resources. We will continue to monitor developments and provide updates on this legal challenge.

Gathering Our Voices Youth Conference
On March 18, I had the pleasure of attending the opening night of the Gathering Our Voices (GOV) Youth Conference, hosted by the BC Association of Aboriginal Friendship Centres. Every year GOV brings together over 2000 Aboriginal youth to take part in four days of workshops, networking, and activities. The event promotes youth leadership development, health, and youth-led action. I enjoyed participating in these opportunities where I am able to see the growing movement of young people who are keen and ready to engage in the work of building strong, healthy and thriving communities.

PART THREE: BC ASSEMBLY OF FIRST NATIONS' OPERATIONS

Change of Date – BCAFN 11th Annual General Meeting
Please be advised that the new dates for the next BCAFN AGM are September 9-10, 2014 and the location will be the Sheraton Wall Centre in Vancouver. The agenda for the AGM will include an election for the Female Youth Representative position. Information about the election and candidacy will follow as soon as possible. The AGM will also be the official launch of the second edition of *Part 1: The Governance Report* of the BCAFN *Governance Toolkit*. The second edition will include updated material as well as new developments impacting First Nations jurisdiction. Each of our members will receive a copy at the AGM or, if you are unable to attend, a copy will be mailed to you following the launch. We will also be gathering feedback during a special session on proposed changes to the BCAFN Constitution and By-laws, and having dialogue around the Premier/BC Cabinet and Chiefs meeting which will occur on September 11th, 2014 – the day following our AGM.

Further information regarding nomination packages, registration, travel and accommodation information, agenda, and resolution deadlines will follow. If you have any questions or concerns in the meantime, please feel free to contact the BCAFN office at 604-922-7733 or reception@bcafn.ca and check out website at www.bcafn.ca for updated information.

Welcome to Aboriginal Youth Intern Joshua Gottfriedson

I am happy to welcome our intern from the Aboriginal Youth Internship Program: Joshua Gottfriedson. Josh will be working with us for the months of June – August, 2014. Some of you may remember Josh from his days as our BCAFN Male Youth Representative and co-Chair of the National AFN Youth Council. We are pleased to welcome Josh to our BCAFN team and look forward to working with him in this new role.

BCAFN Elder Representative

Hereditary 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 Representatives

Erralyn Thomas	Snuneymuxw First Nation	femaleyouth@bcafn.ca
Hjalmer Wenstob	Tla-o-qui-aht First Nation	maleyouth@bcafn.ca

BCAFN Board of Directors

Chief Trish Cassidy	Qualicum First Nation
Chief Maureen Chapman	Skawahlook First Nation
Chief Nelson Leon	Adams Lake Indian Band
Tribal Chief Liz Logan	Treaty 8 Tribal Association
Chief Bruce Underwood	Pauquachin First Nation

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Joshua Gottfriedson	Aboriginal Youth Intern	joshua.gottfriedson@bcafn.ca

Information Sharing/Webpage

The BCAFN website continues to 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 related tools, reference documents and other resources (www.bcafn.ca). 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 us by email at: reception@bcafn.ca.

NOTICES

July 15—17, 2013

34th AFN Annual General Assembly

World Trade and Convention Centre, Halifax, Nova Scotia

For more information see www.afn.ca

September 9-10, 2014

BCAFN Annual General Meeting

Sheraton Wall Centre, Vancouver

For more information see www.bafn.ca

September 11, 2014

Premier/Cabinet and All Chiefs' Gathering

For more information see www.bcafn.ca

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