BRITISH COLUMBIA
ASSEMBLY OF FIRST NATIONS

BCAFN
QUARTERLY REPORT TO THE CHIEFS OF BC

June 2015

BCAFN QUARTERLY REPORT TO THE CHIEFS OF BC – JUNE 2015

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PART ONE: BUILDING ON OUR SUCCESS – IMPLEMENTING THE PLAN

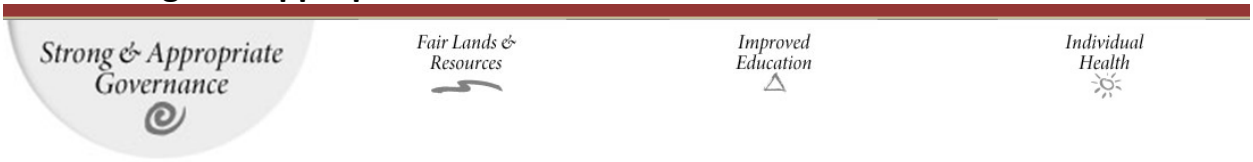
The focus of the British Columbia Assembly of First Nations (BCAFN) continues to be implementation of the *Building on OUR Success* platform (updated 2012) and consisting of four key and interrelated areas. These are:

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 – An Update

The BCAFN was pleased to launch *The Governance Report – Second Edition* (the "Report") at the 11th BCAFN Special Chiefs' Assembly, November 25-26, 2014, in Vancouver. The Report is the first part of the three-part *BCAFN Governance Toolkit: A Guide to Nation Building* and is a companion document to the *Governance Self-Assessment* (Part 2) and *A Guide to Community Engagement: Navigating Our Way through the Post-Colonial Door* (Part 3).

The new edition of the Governance Report provides timely information for anyone wanting to know more about what First Nations in BC are actually doing on the ground to support and create strong and appropriate governance. While the Report has been of interest to the broader Canadian public, including several Canadian Universities who are looking to include it in course curriculum, it is a tool designed expressly for use by First Nation communities and leaders of change inside communities in developing their Nation's own "critical path" to implementing governance reform and re-establishing self-governance for their peoples and lands, including governance over lands that have been set aside as existing Indian reserves, treaty settlement lands and Aboriginal title lands, as well as ancestral lands that transcend all other categories of First Nation lands.

Since the First Edition of the Report was published in 2011, developments in the law, including the first declaration of Aboriginal title in the *Tsilhqot'in* decision, have challenged the strict constitutional division of powers between the federal and provincial governments, and have raised questions about whether the provincial governments legislative competence with respect to First Nations peoples, in particular respecting governance matters beyond reserve lands and within Aboriginal Title lands. Changes in the legal landscape, as well as the considerable governance reform activities undertaken by many First Nations in BC since 2011, made updating the Governance Report especially important at this time.

In addition to the second edition of *The Governance Report*, this spring the BCAFN worked to complete two new community engagement tools, *2.4 Citizens' Governance Survey—Handout*, and *3.5 Communications Plan—Outline* as additions to the existing *Guide to Community Engagement* (Part 3, *BCAFN Governance Toolkit*), as well as a new user's guide titled, *Supporting Leaders of Change—A User's Guide to the BCAFN Governance Toolkit*. The User's Guide looks to support First Nations communities and leaders of change in working to empower their own citizens and employees to take full advantage of the Toolkit. The new community engagement tools and user's guide will be officially launched at the BCAFN Annual General Meeting, on June 24-25, 2015.

Nation building and rebuilding efforts in BC reflect a deep understanding among a growing number of First Nations leaders and citizens that strong and appropriate governance is absolutely necessary if First Nations are to implement Aboriginal title, and govern existing reserves in the interim. In order for our peoples to reach their full potential, for our opportunities to be maximized, and for the collective future of our peoples within Confederation to be certain, we need strong governance and to move beyond the limitations of the *Indian Act*. In 2015, there continue, of course, to be significant obstacles our Nations face when undertaking this transitional governance work.

In our own work to create the *BCAFN Governance Toolkit*, the BCAFN has often been reminded of these obstacles, but we have also been reminded of the opportunities to affect change that exist and we have witnessed how these opportunities are magnified when we work together and leverage our shared knowledge. For the last decade, and arguably longer, those who study good governance have been lamenting specifically on the need for "evidence informed" policy and practice. Creating and updating the Toolkit has been an exercise in collecting our own evidence of what has been attempted and what is working in reforming First Nation governance. The right and responsibility, however, remains with each one of our Nations to chart their own path and to use the information or evidence to inform their own decision-making when developing their own "exit strategy" for moving beyond the *Indian Act* at their own pace and based on their own governance priorities. As First Nation governments continue to be challenged in their efforts to move beyond the *Indian Act*, it is the hope of the outgoing Regional Chief that the toolkit remains an important tool in their arsenal. The vision for the *BCAFN Governance Toolkit* was originally and remains premised on the idea that it is essential that First Nations have governance choices, share information and build on the experience and work of other First Nations. The BCAFN is grateful for the continued feedback we receive on the Toolkit. All three parts of the Toolkit are available for download on our website at www.bcafn.ca/toolkit.

BCAFN Legal Political Strategy

Throughout 2014, following the *Tsilhqot'in* decision, the BCAFN continued to work to refine and update the *BCAFN Legal Political Strategy* based on direction of BC Chiefs. In particular, adjustments were made to incorporate direction of the Chiefs-in-Assembly at our 11th BCAFN Annual General Meeting in Vancouver last September. A revised *BCAFN Legal Political Strategy* was provided to the Chiefs and reviewed at the BCAFN Special Chiefs' Assembly, November 25-26, 2014. The revised strategy document incorporates our new *Tsilhqot'in* reality and the four principles for engaging with the Crown that were identified by the Chiefs-in-Assembly and presented to the Province on September 11, 2014. These principles and engagement with the province are discussed later in this report. With the *Tsilhqot'in* decision, the transition into an era of recognition followed by reconciliation (i.e., recognition is not an outcome of reconciliation but the basis for engagement) should become the norm. The Supreme Court of Canada has clearly confirmed that Aboriginal title is more than just a legal concept when it issued the first declaration of Aboriginal title in BC. From this decision, it must be assumed by any reasonable person that all Nations, in the same position as Tsilhqot'in, have title. What is not clear is the pace at which this transition will occur. First Nations in BC have a real opportunity to accelerate the pace of change.

As set out in the revised legal political strategy document, the *Tsilhqot'in*, *Calder, Delgamuukw, Haida Nation, Morris, Manitoba Métis* and *Ahousaht* decisions exist as landmark statements about the direction and trajectory of legal recognition of title and rights, including treaty rights, and of the proper relationship between the Crown and First Nations. The energy and determination Nations have demonstrated in pursuing these legal victories is recognized and very much appreciated by all First Nations who have benefitted collectively from this work. The hard work now is to actually implement these decisions and to move beyond lawyers, courts, arguments and words. This era of recognition is going to require as much energy and

determination in pursuit of reconciliation tools, be they legislative, policy or otherwise, that speak directly to the practical implementation of title and rights on the ground and for our communities. The existing disconnect between the legal landscape and Crown decision-making (legislation and policy) which impacts directly on First Nations cannot continue and there is a need to engage with the Crown on developing the tools of transition and moreover to organize internally as First Nations in order to take responsibility for the difficult governance reform work that is needed. Dealing with the structure of our political institutions and the land base over which they are responsible is critical. This includes the perennial difficulty in moving beyond reserves and band governance to title and Tribal governance, and resolving who speaks for the proper title holder and can actually engage with the Crown, both legally and legitimately, after being "recognized". The *BCAFN Legal Political Strategy* is a rolling document and is intended to keep us all focused on this important work.

If you were not present at the Special Chiefs' Assembly in November and would like a copy of the legal political strategy document or if you would like to provide further feedback on the draft, please contact our office.

First Nations Sectoral Governance Initiatives

First Nations Finance Authority (FNFA): As reported in the last Quarterly Report, history was made in 2014 when the First Nations Finance Authority (FNFA) issued its inaugural debenture (bond) in the amount of $90 million CAD. All governments, including First Nations, need access to public financing. The FNFA provides this vehicle. The FNFA pools the borrowing requests of its member First Nations and issues bonds into the Capital markets to raise the funds needed. The cost of this money reflects the strong underlying credit of the pool of borrowers.

During the current period of Nation building and rebuilding, it is of course crucial that First Nations governments be able to access capital. During FNFA's formative days, it was recognized that individual First Nations, those under the *Indian Act* or who are self-governing, were really too small to access capital markets on their own in any cost-effective way, if at all. The FNFA continues to work to create economies of scale through pooling in order for its members to borrow when needed at affordable interest rates. At present, the FNFA has 39 borrowing "member" First Nations, five that are in the process of becoming borrowing members, and approximately one hundred-fifty First Nations have requested that the minister permit them to use the act and the services of the FNFA.

The capital raised through the FNFA has been used by First Nations to build and make improvements to roads, water and waste systems, power/lighting, public buildings and other local infrastructure as well as to support economic opportunities both on and off-reserve. Since issuance of the first inaugural FNFA bond last year, the FNFA has continued to issue bridge financing at 2.6% to member First Nations. These short-term loans will be rolled into the second debenture to be issued in June or July 2015.

The FNFA is an important institution now for many First Nations, but barriers still exist, both real and perceived, for many First Nations looking to access capital at affordable rates. Further, as more Nations move beyond the *Indian Act* model of governance and continue to draw down

governance jurisdictions, their governments will need not only improved borrowing relationships and rates, but to establish their own revenue streams and with this in mind, our Nations are increasingly demanding to engage with the Province and Canada on a new fiscal relationship with Crown governments.

As part of improving the governance framework that was created for the FNFA and other First Nations fiscal institutions, amendments to the *First Nations Fiscal Management Act* developed and recommend by the institutions were included in *Bill C-59: Economic Action Plan 2015 Act, No. 1.* The bill went through second reading on May 25, 2015 and is currently under study by the House of Commons Standing Committee on Finance. Division 16 of the bill amends the *First Nations Fiscal Management Act*.

First Nations Framework Agreement on Land Management: At present there are 112 First Nations across Canada that have become signatories to the Framework Agreement and 54 of these First Nations are in BC. There are 52 First Nations across Canada that have ratified their land codes through a community ratification process and 32 of these are in BC. An additional 62 First Nations are on a waiting list to become signatories.

One out of every five First Nations in Canada is either a signatory to the Framework Agreement or on the "waiting list" to become a signatory. This is an incredible achievement and an important part of the larger project of Nation building and rebuilding. At the BCAFN, we continue to champion that all First Nations that want to use this modern governance tool to exercise their right of self-government be able to do so.

First Nations Elections Initiative: On April 11, 2014, the *First Nations Elections Act* received Royal Assent. As previously reported, the 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.* For First Nations to opt in to this legislation, regulations have to be developed and brought into force. The Atlantic Policy Congress, who was engaged in the development of the legislation, has also taken a lead role on engaging with First Nations across Canada in drafting the regulations. In 2014, two workshops were held, attended by electoral officers and First Nations representatives, and based on the discussions, recommendations were summarized in a discussion guide that was made available online and distributed to all First Nations. A draft of the regulations was published in the Canada Gazette on February 6, 2015. A 30 day public comment period commenced and the official deadline to provide comments on the draft regulations was March 9, 2015. In February 2015, during the 30 day comment period, Atlantic Policy Congress representatives were in BC and presented at the First Nations Summit meeting where they sought feedback. Canada will now review comments and the regulations will then be finalized and published once again in the Canada Gazette, at which time a First Nation will have the opportunity to opt in to the electoral system created through this act and its regulations.

Federal Legislative Initiatives

Included below are some notable developments relating to specific federal legislative initiatives since our last report in November 2014. The second edition of *The Governance Report* (Part 1 of

the *BCAFN Governance Toolkit*), which was launched in November 2014 at the BCAFN Special Chiefs' Assembly, contains more in depth information about recently enacted federal legislation that directly impacts First Nations in BC or which is proposed. In addition to the specific legislation directed to First Nations, there are also a number of other federal Bills/Acts of general application that impact, or could impact, First Nations and First Nation's governance and these are also discussed.

Government led Initiatives

Bill C-33: First Nations Control of First Nations Education Act: Bill C-33 was first introduced in the House of Commons on April 10, 2013, and passed second reading in the House of Commons on May 5, 2014, but with considerable debate and criticism of the bill. Minister Valcourt has announced that the bill will be held pending clarification of the position of First Nations. A number of First Nations organizations, including the BCAFN, First Nations Summit, Union of BC Indian Chiefs, the Federation of Saskatchewan Indian Nations, the Association of Iroquois and Allied Indians, the Union of Ontario Indians, the Nishnawbe Aski Nation, the Assembly of the First Nations of Quebec and Labrador, and the Assembly of Manitoba Chiefs, have expressed concerns with the bill as drafted. Later in this report, the bill and First Nations education are discussed in further detail.

First Nations Financial Transparency Act: The *First Nations Financial Transparency Act* (FNFTA) passed into law back in March of 2013. Last summer, the legislation was back in the news when the particular provision requiring salaries and expenses of the chief and councillors of all Nations to be published online came into force.

While there continues to be much public interest in the FNFTA and the resultant publication of the salaries of chiefs and councils, the broader issues of transparency and accountability that our Nations are grappling with and trying to address as part of Nation rebuilding do not receive enough attention or support from Canada. As the outgoing Regional Chief has stated on a number of occasions, neither the *Indian Act* nor the FNFTA adequately address accountability of our governments, politically or financially. It has been the experience at the BCAFN working with First Nations in BC, that First Nations are looking for more appropriate structures and procedures of government and are developing their own community constitutions, election codes, financial administration laws and other laws to do so precisely because of the deficiencies in the *Indian Act* and in the FNFTA.

No one disagrees that there must be transparency and accountability in First Nations governments, as with any other government – our citizens demand it. This relatively new and deficient legislation draws further attention to what is needed locally – governance tools beyond the *Indian Act* which are supported nationally by a new fiscal relationship with the Crown.

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: The *Family Homes on Reserves and Matrimonial Interests or Rights Act* (FHRMIRA), as reported previously, 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. On December 16, 2014, if your First Nation was not exempt or had not passed a matrimonial real property law, then the provisional "default" federal rules in the Act came into force and now apply to your community. Some communities in BC had been working to develop their own laws before December 16, 2014.

First Nations still retain the right to enact their own laws at any time and remove themselves from the federal regime. The BCAFN Governance Toolkit also has useful information on what our Nations here in BC have done in terms of enacting their own matrimonial real property laws. This information can be found under the "Matrimonial Real Property" jurisdiction in the second edition of *The Governance Report*, available on our BCAFN website: www.bcafn.ca/toolkit.

Indian Act Amendment and Replacement Act: Bill C-428, a private member's bill, was first introduced on June 4, 2012 by Conservative MP Rob Clarke. The bill received Royal Assent on December 16, 2014. Now law, the *Indian Act Amendment and Replacement Act* does repeal some outdated and antiquated clauses within the *Indian Act.* For example, the act repeals specific references to residential schools and provisions allowing for forcible removal of children from homes to attend school. The act also makes revisions to *Indian Act* sections on by-laws. These revisions eliminate the Minister's oversight in regards to the submission, coming into force and disallowance of by-laws and as such enhance First Nations' autonomy and responsibility over the development, enactment and coming into force of by-laws. Finally, the act does require the Minister of Aboriginal Affairs and Northern Development Canada to report annually on work undertaken in collaboration with First Nations on the development of legislation to replace the *Indian Act.*

The *First Annual (2015) Statutory Report Pursuant to Section 2 of the Indian Act Amendment and Replacement Act*, was released on Aboriginal Affairs and Northern Development Canada's website (www.aandc.gc.ca) within the first 10 sitting days of the House of Commons this calendar year, as required through the legislation. The report is a few pages long and disappointing in its failure to reference any substantive work to replace the *Indian Act* or any new initiatives to do so. Instead, the brief report notes recently enacted legislation, such as *Family Homes on Reserves and Matrimonial Interests or Rights Act*, and the *Safe Drinking Water for First Nations Act.*

Unfortunately, this act, like those mentioned in the report, tinker with the *Indian Act* and do not provide for substantial change. Amending small portions of the *Indian Act* is not in keeping with First Nations' vision of self-government. In 2015, the *Indian Act* is not acceptable. It never was.

Safe Drinking Water for First Nations Act: The *Safe Drinking Water for First Nations Act* came into force on November 1, 2013. As I have noted in previous reports, there was not previously

legislation governing drinking water standards in First Nations communities outside of any bylaws that First Nations may have made under the *Indian Act* or laws under comprehensive governance arrangements. This short piece of legislation, and the large number of detailed regulations that are now in development and will eventually exist under it, will apply to all First Nations that are not self-governing. Stated differently, the act essentially establishes a comprehensive framework to regulate drinking water and wastewater on-reserve.

Since the new legislation was first introduced in the House of Commons, First Nations from across Canada have and continue to express concerns that the introduction of this legislation, without matching investment in human capacity, will actually jeopardize First Nations' drinking water by increasing costs associated with monitoring, reporting and compliance and imposing financial penalties related to enforcement.

Despite these valid concerns, many of our Nations in BC and across Canada have agreed to be involved in regulatory development related to this new legislation. AANDC opted for a staggered approach to regulatory development, three regions at a time. The Atlantic, Yukon and Northwest Territories were the first three regions identified by AANDC and AANDC's aim is to have regulations published in *Canada Gazette Part II.* Though no precise timeline has been identified for regulatory development in BC, AANDC has prepared a summary document detailing BC's existing provincial regulations relating to drinking water, wastewater, and sources of drinking water. This document is available online at www.aadnc-aandc.gc.ca.

Other Notable Federal Legislation

In addition to federal legislation that is led by First Nations (sectoral governance initiatives), or legislation that is imposed by the government and that is geared directly to First Nations, there are a number of other bills that are or were before Parliament that would impact First Nations if they were to become law. Some are government led and others have been proposed/supported by the opposition parties.

Bill C-46: Pipelines Safety Act: Bill C-46 was introduced December 8, 2014, went through second reading on March 9, 2015, and was referred to the House of Commons Standing Committee on Natural Resources. Very limited timelines for review of the bill at Committee were set, designating one meeting on March 31, 2015 to hear from witnesses, and moving to clause-by-clause review on April 21, 2015. On May 6, 2015 the bill went through third reading.

The bill completed second reading in the Senate on May 14, 2015, and was referred to the Senate Standing Committee on Energy, the Environment, and Natural Resources for study. On June 2, 2015, Alberta AFN Regional Chief Cameron Alexis presented to the committee. On June 4, 2015 the committee report was presented without amendment.

According to the federal government, this legislation will complement a number of previously implemented measures to strengthen pipeline safety. Specifically, the bill introduces absolute liability for all National Energy Board (NEB)-regulated pipelines. Companies operating pipelines will be required to hold a minimum level of financial resources — up to $1 billion for companies operating major oil pipelines. Under the new legislation, companies continue to have unlimited

liability when at fault or negligent. The bill also provides the NEB with the authority to order reimbursement of any clean-up costs incurred by governments, communities or individuals and resources to assume control of incident response if a company is unable or unwilling to do so (i.e., in exceptional circumstances).

There are, of course, implications for First Nations. The April 2, 2015, written submission to the House of Commons Standing Committee on Natural Resources from the national AFN, outlines important measures in relation to First Nations that are missing from this bill. The AFN's full submission is available upon request.

Bill C-51 Anti-Terrorism Act 2015: Bill C-51 is a highly controversial bill. The government, as sponsor of this bill, is focused on what they describe as the primary aim of this bill, namely better enabling the Canadian Security Intelligence Service and the RCMP to deal with potential terrorist threats, and to criminalize the promotion of terrorism. Bill C-51 was introduced on January 30, 2015, underwent a review by the House of Commons Standing Committee on Public Safety and National Security, and at the time of writing was at third reading in the Senate.

Across Canada, many organizations and citizens, including First Nations, have expressed their concern that the bill is too broad, potentially applying to nearly any activity including nonviolent civil disobedience. These critics point to the bill as allowing for peaceful protestors to be treated as potential terrorists.

Specifically, under Part 2 of the bill, the definition and description of "activity that undermines the security of Canada" has been problematic for many First Nations citizens, organizations and communities who have on occasions marched across or set up blockades at the border of the United States and Canada, called for action on a specific file by setting up a blockade along a highway, or who have blocked access to a road or railway. Under the new bill, these activities arguably might be suspect as an act of terrorism. Despite some minor amendments made at the House of Commons committee, in particular, removal of the word "lawful" from the greater certainty clause under the Definitions in Part 1, which now reads "For greater certainty, it (activity that undermines the security of Canada) does not include advocacy, protest, dissent and artistic expression" the bill arguably still creates uncertainty. While First Nations demonstrations should be seen as "advocacy, protest or dissent", we still do not know how the Canadian judicial system will ultimately interpret these activities. This would remain to be seen should the bill become law and then if the security services/RCMP start detaining or arresting First Nation protestors.

First Nations leaders have presented to committee on Bill C-51. On March 12, 2015, AFN National Chief Bellegarde presented to committee. The National Chief's presentation is available through the AFN website at www.afn.ca, along with a full technical update prepared by AFN on this bill. Grand Chief Stewart Phillip, President of the Union of BC Indian Chiefs has also presented to committee on the bill and more information about his presentation can be accessed through the UBCIC's website at www.ubcic.ca

Bill C-641: United Nations Declaration on the Rights of Indigenous Peoples Act: This private members bill was introduced by Romeo Saganash, Abitibi – Baie-James – Nunavik – Eeyou, and received first reading on December 4, 2014. Debates at second reading took place on March 12, 2015. At this time, Mark Strahl, Parliamentary Secretary to Minister Valcourt, indicated that his government rejects Bill C-641. Mr. Strahl went on to describe portions of the UNDRIP with which his government has "grave concerns", particularly those that relate to the concept of free, prior, and informed consent found in Article 19 of UNDRIP. Based on these concerns, he argued, his government could not agree to enshrine UNDRIP in Canadian law through this bill. On May 6, 2015, this bill was defeated at second reading.

If passed into law, this bill would have required the Government of Canada to take all measures necessary to ensure that the laws of Canada are in harmony with UNDRIP and to table a report on its progress between 2016 – 2036. Under this bill, the Minister of Aboriginal Affairs would also have been required to prepare an annual report to Parliament for the next four years reviewing progress in implementing this law. Full text of the major speeches at second reading of this bill are available online through the Parliament of Canada's website www.parl.gc.ca.

Bill C-628: An Act to amend the Canada Shipping Act, 2001 and the National Energy Board Act: This private members bill was introduced on September 23, 2014 by Nathan Cullen, Skeena—Bulkley Valley. Conservative MPs have suggested they will not support this bill, and on April 1, 2015, the bill was defeated at second reading in the House of Commons. If passed into law, this bill would have amended the *National Energy Board Act* to ensure that consultations must take place between the Government of Canada and First Nations whose lands or waters will be affected by a pipeline. Through the Parliament of Canada website the full debates during second reading are accessible for those interested www.parl.gc.ca.

Senate Standing Committee on Aboriginal Peoples: **Interim Report on Housing on First Nation Reserves: Challenges and Successes**

On February 20, 2015, the Senate Standing Committee on Aboriginal Peoples released its interim report on Housing on First Nation reserves. In preparing the interim report, the Committee held 21 public hearings in Ottawa, one public hearing in Thunder Bay, ON, and Senators visited 16 individual First Nations communities in Nova Scotia, Ontario, Quebec and BC.

In the foreword of their interim report, the Committee makes the following observation:

> *What the Committee has heard and seen about housing has been compelling. The poor quality of housing and the overcrowding in many communities is a distressing situation. At the same time, the Committee has been inspired by the innovative approaches taken by creative individuals in so many communities across the country. Indeed, innovation has been where big strides have been made by First Nations - in financing mechanisms, land use, and building materials.*

The interim report makes no recommendations, suggesting recommendations will come in the final report, but it does provide a statistical portrait of on-reserve housing and make several related observations. The report describes most First Nation communities as having a "mix of

band-owned homes, rental housing and privately-owned homes. According to 2011 data, fifty-nine percent of units on reserve were band-owned housing, ten percent were rental housing, and thirty-one percent were privately owned. This contrasts with housing data for non-Aboriginal Canadians, 69 percent of whom were homeowners in 2011.

The full fifty-six page interim report can be accessed online at www.parl.gc.ca. The Senate Standing Committee has now entered into the second phase of its study, and following conclusion of this phase, the Committee will table a report with recommendations to Senate. These recommendations, through a final report, are due by December 31, 2015.

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 First Nations Leadership Council, the Changing Landscape, Implementing Tsilhqot'in and the Need for Reconciliation in BC

Time for Reflection – Ten years of the Leadership Council: This year, March 17 marked the 10th anniversary of the First Nations Leadership Council (FNLC). In 2005, the *Leadership Accord* was signed, committing the BCAFN, the First Nations Summit, and the Union of BC Indian Chiefs to a collaborative relationship. Since the signing of the Accord, and based on the direction from the Chiefs and the All Chiefs Task Force, the FNLC has continued to evolve as a political forum with an overarching aim to secure the recognition of Aboriginal title and rights including treaty rights, and to improve the well-being of First Nations communities and their citizens. The ten year anniversary is both an opportunity to celebrate and reflect on what has been achieved, but also to hold up a mirror to the FNLC and all of our organizations and to ask difficult questions about how they can continue to evolve and what needs to change in order to deliver on our overarching aims.

Central to this conversation is whether, in fact, there remains a need for three primary provincial political organizations in BC. This is a question on many people's minds given limited human and financial resources might be better spent in supporting one organization with a common purpose. First Nations in BC are essentially on the same path already with different strategies, which collectively, are to achieve the same objectives – with the ultimate goal to improve the quality of life for our people. This strategy is essentially set out in the BCAFN legal political strategy document. Further, many First Nations Organizations (FNOs) have been

established for a range of specialized purposes (e.g., health, forestry, education, etc.) and these FNOs are undertaking policy work and other activities that historically were undertaken by one or more of the three primary provincial political organizations.

In furtherance of evolving relations between First Nation political and representative bodies, on January 14, 2015, the FNLC met with representatives from twelve FNOs. This meeting was followed by an internal FNLC strategic planning session on January 15. Over the past ten years, the FNLC's ongoing work to support FNOs in their sector initiatives and in some cases to formalize existing partnerships, as well as seek out new partnerships with shared goals is important to recognize and celebrate. However, in our discussions together the FNLC and FNOs talked also about challenges that exist in our partnerships and opportunities to be more effective and efficient in all the work we do. On March 10, 2015 the FNLC and FNOs met for a second time to continue our discussions. A joint commitment to focus on collaborating on key issues, as well as to formalize a FNO/FNLC meeting schedule throughout the year was expressed. The FNLC and FNOs also discussed developing a terms of reference that will help to guide this FNLC-FNO Forum into the future.

As this work continues it is important to recognize that ultimately these bodies (the three PTOs and the FNOs) all serve the same master; namely the individual First Nations that today, for the most part, may be a collection of predominantly *Indian Act* bands administering reserves, but in the not so distant future will be superseded by recognized self-governing Indigenous governments and governing ancestral lands. This transition must take place in order to implement Aboriginal title and the three PTOs and the FNOs have a key role to play to support this Nation rebuilding.

Implementing Tsilhqot'in: As reflected upon in the last BCAFN quarterly report, the legal landscape has shifted in the post-*Tsilhqot'in* era and First Nations continue to advocate that the status quo is wholly unacceptable. First Nations leaders understand that the path forward must be based on recognition and reconciliation and with all Nations. The old days of making "land claims" against the Crown are really over. The only claims today are, unfortunately, those claims between Nations over the same territory.

The *Tsilhqot'in* decision is a game changer in many ways. Two of the most important ways are in regards to land quantum and governance. First, the case speaks to the proposition that Aboriginal title extends to a large area of the land First Nations have historically occupied. It is now reasonable to assume that where Nations have un-extinguished Aboriginal title within their ancestral lands, that title extends to areas of land that are far more extensive than the existing reserves or small additions to those reserves and far greater than what the Crown argued they were. Second, in relation to governance, while the court has clearly said that the landmass over which Aboriginal title extends is territorial and not limited to intensively used small spots, it has not expressly stated how title lands are to be governed. Going forward, the Tsilhqot'in Nation and indeed all First Nations, are being challenged to consider whose laws will apply to the title lands so declared. When considering whose laws will apply, the answer will be a combination of Indigenous law and Crown laws (both provincial and federal) as applicable. The relationship between laws will now need to be addressed in the post-*Tsilhqot'in* era. This

case presents both an exciting but also a daunting opportunity and this new challenge makes a framework for engagement with BC and Canada, based on reconciliation between the Crown governments and First Nations, absolutely critical at this time.

Following the *Tsilhqot'in* decision, on August 14 and 15, 2014 the leadership in BC came together for a special BC Chiefs' forum to discuss the way forward and to begin building a BC First Nations' strategic response to implement the decision. Chiefs-in-Assembly further refined the four principles through discussions at the BCAFN Annual General Meeting held last September, 2014. These principles were then brought forward to Premier Clark and her Cabinet at the First Nations Leaders Gathering held on September 11, 2014. The four principles are:

1. *Acknowledgement that all our relationships are based on recognition and implementation of the existence of indigenous peoples inherent title and rights, and pre-confederation, historic and modern treaties, throughout British Columbia.*
2. *Acknowledgement that Indigenous systems of governance and laws are essential to the regulation of lands and resources throughout British Columbia.*
3. *Acknowledgement of the mutual responsibility that all of our government systems shall shift to relationships, negotiations and agreements based on recognition.*
4. *We immediately must move to consent based decision-making and title based fiscal relations, including revenue sharing, in our relationships, negotiations and agreements.*

Efforts at Reconciliation with the Province: Since the September 11, 2014 meeting, the FNLC have continued to work to ensure action on the four principles and, in particular, to drive dialogue amongst First Nations, BC, and Canada. There has, in fact, been very little engagement at this level although First Nations have been engaging directly with the provincial Crown and we understand there are a number of "lead" reconciliation tables at which the province appears to be directing its resources, and accordingly developing its post- *Tsilhqot'in* policy and approaches. This, appropriately, includes the Tsilhqot'in Nation.

On March 30, 2015, the FNLC did meet with the Deputy Minister to the Premier, John Dyble and tabled a letter for the Premier, attached to which was a draft "engagement matrix" which starts to outline a possible way forward in terms of reviving the FNLC-BC political engagement process around the four principles. Deputy Minister Dyble received the letter and documents in the spirit in which they were intended and agreed to an intensive multi-day meeting between himself, the FNLC, and Deputy Ministers from across government ministries. This meeting took place on June 1-2, 2015 in Vancouver. The two-day meeting allowed for a longer and more involved dialogue and planning session with the Province. The BCAFN will provide a full briefing of this meeting at our upcoming Annual General Meeting, June 24-25, 2015 in Vancouver and seek direction from leadership. However, the June 1-2 meeting did end with a commitment from the Premier's office to form a Joint Working Group between the Premier's Office and the FNLC to be struck immediately to engage in preparing for the second annual BC Cabinet and First Nations' Leaders Gathering, September 8-10, 2015. A terms of reference for that working group is currently being drafted.

As mentioned, the Tsilhqot'in have been engaged in their own high-level reconciliation discussions with the province (Canada is not participating) since the decision. This is important work the outcome of which is of interest to all. However, while the outcome of those discussions will be very informative, they will not, of course, be determinative of how reconciliation province-wide will ultimately unfold in accordance with the principles and as set out in the BCAFN Legal Political strategy. Moreover, it is recognized that all First Nations need to support one another and work together to implement decisions and that First Nations have their own priorities in terms of reconciliation and their own interpretations of what it looks like legally, politically and on the ground. There are many Nations that have gained their own experience in reconciliation, with different models developing and work being undertaken. There are a number of successes that can be built upon. At the end of the day, all Nations need to have their own table with the Crown to reconcile and there must be the mechanisms in place to support this critical work.

On this note, the second edition of the BCAFN *Governance Report,* the release of which was, in fact, delayed until after the *Tsilhqot'in* decision, includes a fair amount of information about the implications of *Tsilhqot'in* on governance, ideas for moving forward and important questions that need to be raised after *Tsilhqot'in.* It is our hope at the BCAFN that the *Report* will assist our Nations in navigating governance in the post-*Tsilhqot'in* era and in leveraging the experience and expertise of all our Nations based on their varied experiences and their own projects of Nation building. Meaningful change, after all, will only occur through the hard work of our individual Nations, communities and citizens. It is these efforts that effect change on the ground and breathe life into court decisions such as *Tsilhqot'in*.

There is much hard work to do in community to realize the opportunities of *Tsilhqot'in*. Accordingly, it is still critically important and necessary to compliment and support the individual efforts our Nations are making to rebuild, by working with BC and Canada at the highest political level to establish a broad enough reconciliation framework to support this work. Federally this work was started after Idle no More but has come to a standstill with the federal government focussed primarily on oil and gas and project-based, specific "consultation and accommodation" and not broader-based reconciliation and the implementation of title and rights. Simply put, we still need a new national framework for reconciliation and to remove existing barriers to the implementation of title and rights. The development of this national framework is discussed below in relation to the recent report by Special Ministerial Representative Doug Eyford respecting Canada's various policies and directives respecting 'land claims' and self-government that are commonly referred to as the federal governments "Comprehensive Claims Policy".

Upcoming BC Cabinet and First Nation Leaders' Gathering – September, 2015: On September 11, 2014, the first BC Cabinet and First Nation Leaders' Gathering in recent times was held in Vancouver. As discussed above, First Nations leadership tabled four principles with the Premier and her Cabinet, urging that these be the basis for future work between the Province and First Nations in BC. While Premier Clark and members of her Cabinet did acknowledge at different points throughout the day that the *Tsilhqot'in* decision was meaningful and presented an

opportunity to change the relationship between the provincial Crown and First Nations, the Province was unable at this meeting to endorse the principles and have been unable since.

On November 6, 2014, the FNLC met with senior staff from the Premier's Office to discuss the September 2014 gathering and next steps. At this meeting, the Premier's Office committed to future gatherings as part of a plan to engage and reconcile with First Nations in BC. The next gathering, as noted above, is currently being planned for September 8-10, 2015 and as mentioned a newly struck joint working group will aid in planning for this next gathering.

While these annual gatherings with the Premier are important opportunities for our leadership to meet with cabinet ministers, they can only be effective if they are a part of a larger process of engagement that is focused on building a strong reconciliation framework with the Provincial Crown, one that acknowledges and allows for the advancement of the four principles with each Nation that must be reconciled with. When the terms of reference for the new joint working group is finalized, we hope that the document will make clear the Province's commitment to work with all First Nations in BC towards the long-term goal of developing a BC reconciliation framework in partnership with our Nations. A strong reconciliation framework is, of course, something the BCAFN, supported by First Nations in BC, has been pursuing with the federal Crown. Our efforts with both BC and Canada to pursue a broad reconciliation framework are very much connected, or should be, and this is made clear in the recent Eyford report.

Advancing a New Federal Reconciliation Framework

Getting rid of the Federal Comprehensive Claims Policy (CCP): Canada's policies respecting settling land claims have not been significantly updated since 1993. However, since 1982, more than forty Supreme Court of Canada decisions have provided guidance on the nature and content of Aboriginal rights, including Aboriginal title to land, and on the Crown's obligations with respect to such rights. The most recent of these cases is of course the historic decision in *Tsilhqot'in* (2014), where the Supreme Court of Canada ruled for the first time that a specific group has Aboriginal title within their broader ancestral lands. While Canada has identified risks and potential consequences arising from these cases, and has made some changes to its policies and approaches to negotiations, development and reform of Canada's policies, such as CCP, to respond to these court decisions has been unacceptably slow. This is not only affecting the ability of our Nations to move forward and rebuild based on their vision, it is also hurting Canada's economy.

In July 2014, Minister Valcourt appointed Doug Eyford to lead Canada's engagement with Aboriginal groups and key stakeholders as a first step towards what Canada has called the renewal of Canada's CCP. The decision to appoint Mr. Eyford and his work, overlapped with the work of the Senior Oversight Committee on Claims (SOC) and de facto eventually replaced the joint work of the SOC. Mr. Eyford's appointment also coincided with Canada's release of an interim policy, *Renewing the Comprehensive Land Claims Policy: Towards a Framework for Addressing Section 35 Aboriginal Rights*, which Canada has suggested was a starting place for Eyford's engagement. As reported in the last quarterly report, this interim policy includes principles of recognition and reconciliation that were initially developed through the Senior Oversight Committee on CCP through extensive work undertaken in 2013 (previous BCAFN

quarterly reports detail extensively the work in 2013 at SOC: www.bcafn.ca/files/reports.php). These principles, however, were not finalized at the time they were adopted by Canada and were, in fact, being studied by First Nations more broadly than the SOC. In any case, they need to need reviewed in light of *Tsilhqot'in*. To be meaningful, these principles would need to be incorporated into a new approach to resolving the land question, and not simply grafted onto a CCP policy that otherwise does not reflect them. The BCAFN did make a submission to Mr. Eyford regarding the interim policy, based on the substantive work undertaken at the SOC and other work of the Chiefs, stressing, among other things, the need for a broader reconciliation framework.

Final Report of Doug Eyford, A New Direction: Advancing Aboriginal and Treaty Rights: On April 2, 2015, the Final Report of Special Ministerial Representative on CCP, Doug Eyford was released to the public. The report, titled, *A New Direction: Advancing Aboriginal and Treaty Rights* ("Eyford Report"), makes 43 recommendations for Canada to consider in its deliberations on next steps with regards to Canada's comprehensive land claims policy (CCP) and reconciliation with First Nations.

Firstly, it is encouraging that several recommendations in the Eyford Report speak directly to the need for Canada to develop a new federal reconciliation framework, not just a renewed CCP. This is important. Recommendations set out in *Appendix C – Consolidated List of Recommendations* include:

> *Recommendation 1: Canada's new reconciliation framework should include a renewed and reformed comprehensive land claims policy along with a wider spectrum of policies and initiatives to reconcile constitutionally protected Aboriginal and treaty rights;*
>
> *Recommendation 2: The new reconciliation framework should reflect the historic, cultural, and regional diversity among Aboriginal communities to effectively address Aboriginal and treaty rights; and,*
>
> *Recommendation 3: A "whole of government" commitment is required, with high level direction and oversight, to implement the new reconciliation framework.*

These recommendations speak directly to the need to develop a high-level reconciliation framework, requiring cross-government support and coordination to implement. Numerous court victories by First Nations and the failure of the current treaty-making process in BC to deliver significant results, has made it quite clear that Canada must move away from a policy premised on First Nations making claims to the Crown. The Report speaks to the need for reconciliation mechanisms in addition to modern treaty-making and indeed to reform the existing process of treaty-making to make it more effective and in-line with the common law. Canada must move to embrace real recognition followed by a process of true reconciliation. The future of First Nations and the national economy depends on this. As noted briefly above and in past quarterly reports, a cross-government reconciliation framework, developed jointly with First Nations, is something that BCAFN has strongly urged the Prime Minister and the federal government to pursue since discussions began with the Prime Minister's Office at the SOC on CCP in 2013.

While we welcome further discussions around the creation of a reconciliation framework, it should be noted that there are some specific areas where the Eyford Report is lacking. The on-going work of First Nations in BC and indeed across Canada to move out from under the *Indian Act* and to build or rebuild strong and appropriate governance is a critical component to reconciliation. In order for the Aboriginal title holder to be properly and legally represented and to ensure durable agreements between Nations and the Crown on the various projects that the federal Crown seeks to "consult", the governing bodies of those Nations must be legitimate and 'legally' able to bind the Nation. Failure to invest in strong and appropriate governance is a false economy on a number of fronts and is a recipe for increased uncertainly.

Accordingly, governance is not an issue that can be separated out from discussions on reforming Canada's CCP, and certainly not from discussions regarding a broader reconciliation framework. Serious consideration needs to be given to the role and responsibility of Canada in supporting and enabling First Nations' governance reform. While the Eyford Report does speak to reconciliation options or mechanisms outside of treaty making, a true reconciliation framework would require a far greater focus on governance – particularly, as discussed earlier, in light of *Tsilhqot'in* and the pressures that the changed legal landscape places on all of us.

Any actions taken, including a renewed CCP policy and a broader reconciliation framework, will have a far greater likelihood of achieving success if they are, from the beginning, pursued jointly with First Nations, their representative organizations and the Provinces, where appropriate. The full text of the Eyford Report is accessible online at www.aadnc-aandc.gc.ca. Appendix C to the report provides a summary list of all of the recommendations contained throughout the report.

BC Treaty Process

On March 25, 2015, the Province announced with no warning to the other parties to the BC Treaty Process that it was rescinding its approval of George Abbott to be the next Chief Commissioner of the BC Treaty Commission. This announcement caught everyone off-guard, including Mr. Abbott. A maelstrom of accusations and commentary ensued through media coverage of all of the parties (the Province, Canada, the BC Treaty Commission and First Nations and their representative organizations). The treaty process is on life support, and if steps are not taken immediately to create some sense of urgency of purpose, reflected in changes to federal and provincial mandates, there will likely only be a few more treaties and the process will die. What was immediately disturbing, however, about the Province's behaviour was the unilateral way in which their decision was made and communicated. Notwithstanding its current problems of mandate and process, the BC Treaty Process requires that strong cooperative relations be developed and maintained between all parties and the Province's announcement, in that sense, was an affront. This cannot be the standard. First Nations in BC who are engaged in the treaty process deserve much better than this.

The Eyford Report, which was released a week after the provincial announcement regarding the Chief Commissioner, does, in the context of Canada's CCP, provide lengthy commentary and recommendations relating specifically to the BC Treaty Process. The BC Treaty Commission and the First Nations Summit have both signalled their interest in further engaging on the

recommendations in the Eyford Report. As stated earlier, the BCAFN will continue to advocate that Canada not shelve this report, but meaningfully engage with First Nations and First Nations' representative organizations going forward.

Te'mexw Treaty Association Agreement in Principle: While the treaty process may appear to be imploding at a slow rate there is still progress being made at some treaty tables. On April 9, 2015, the Te'mexw Treaty Association signed an Agreement-in-Principle (AIP) with Canada and BC. While all parties acknowledged that much work is still required before a final agreement is reached, the signing of an AIP is a significant step towards the completion of a Final Agreement.

Outgoing Regional Chief Jody Wilson-Raybould attended and witnessed the AIP signing ceremony, where hundreds of people gathered at the Songhees First Nation's Wellness Center in Victoria to hear from leaders for the five First Nations that comprise the Te'mexw Treaty Association: Beecher Bay Indian Band (Scia'new First Nation), Malahat First Nation, Nanoose First Nation (Snaw-naw-AS First Nation), Songhees First Nation, and T'sou-ke First Nation. For more information about the agreement and the negotiations you can contact the Te'mexw Treaty Association directly. More information about the association is available online at ***www.temexw.org***.

In addition to Te'mexw, there are an additional three First Nations (representing seven *Indian Act* bands), that have finalized their AIPs and are involved in the process of approving these agreements. These are: Northern Shuswap Tribal Council, Kitselas and Kitsumkalum (Tsimshian communities), and Wuikinuxv. The Te'mexw joins In-SHUCK-ch, K'omoks, and Yekooche First Nations as those in the final stage of the BC treaty negotiations process leading to completion on a modern treaty.

Specific Claims

"Specific claims" are distinct from "comprehensive claims" reflecting divergent federal perspectives on the legal responsibilities of the Crown. The AFN's Chiefs Committee on Claims (CCoC) has met regularly over the past months and remains responsible for providing the AFN with technical and political guidance in its engagement with Canada on land rights and claims. BCAFN Board Director and Spokesperson, Chief Maureen Chapman is the co-chair of the CCoC and, together with colleagues on the CCoC, has taken a very active role in work aimed at improving the Specific Claims process.

As most will be aware, a 5-year legislative review has been underway as Canada evaluates the federal *Specific Claims Tribunal Act* and *Justice At Last,* the 2007 federal policy statement on Specific Claims. When announced in 2007, many First Nations optimistically viewed *Justice at Last* to be an important step towards settling longstanding grievances. Indeed, there was reason to be optimistic as the *Specific Claims Tribunal Act* and the political agreement signed in 2007 by then, Minister of Indian Affairs, Jim Prentice, and former National Chief Phil Fontaine made the commitment to ensure: (1) impartiality and fairness through an Independent Claims Tribunal; (2) greater transparency through dedicated funding for settlement; (3) faster processing by improving internal government procedures; and (4) better access to mediation by

refocusing the work of the current Claims Commission. The optimism has since been replaced by frustration, anger, and growing mistrust in the process.

Acknowledging the growing mistrust, the AFN undertook to appoint an independent AFN Expert Panel to hold hearings and receive submissions for the development of recommendations to improve the Specific Claims process. The AFN's Expert Panel process has now wrapped up and has been carried out in parallel to Canada's own five-year review process.

The members of the AFN Expert Panel on Specific Claims were: Delia Opekokew (Chair), Bryan Schwartz and Robert Winogron (both former counsel for the AFN/Canada Joint Task Force). The AFN Expert Panel held two full days of hearings in March 2015 where First Nations and their representatives were invited to participate. The first hearing was held on March 10, 2015 in Toronto, and the second hearing was held in Vancouver on March 26, 2015. It was especially encouraging for Chief Maureen Chapman and members of the CCoC to see the turnout and participation of BC First Nations at these sessions. As set out in previous quarterly reports, there are serious concerns that have been expressed by First Nations about how the government's Specific Claims Branch currently processes claims and how the Specific Claims Tribunal is working despite some important decisions coming from the Tribunal. These AFN Expert Panel hearings and the report produced highlighted these concerns.

In total, the AFN has reported that the Expert Panel heard 23 oral presentations and received another seven distinct written submissions. Over one hundred individuals attended the two events, and another 500 people viewed the hearing proceedings while they were streamed online. Both events are now available for viewing on the AFN website at www.afn.ca/index.php/en/news-media/latest-news/Assembly-of-First-Nations-Specific-Claims-Review-Expert-Based-Peoples-.

Canada's five-year review process on Specific Claims is also concluding. The federal process included the appointment of Mr. Benoit Pelletier as the Special Representative to the Minister of Aboriginal Affairs, Bernard Valcourt. Mr. Pelletier was to conclude his review by April 15, 2015, and AFN National Chief Bellegarde secured a meeting with him in May 2015, at which time Mr. Pelletier agreed to receive the AFN Expert Panel's report. The BCAFN will provide further updates as information becomes available.

Major Resource and Energy Infrastructure Development

Liquefied Natural Gas (LNG) Development in BC and the Province's Development Agenda: The drop in oil prices earlier this year spurred some question as to any potential impacts to the Province's goal of reaching international energy markets and becoming a leading LNG exporter. Premier Clark has stated that BC will maintain its course, confident that at least three LNG projects will be in operation within five years. Whether LNG will expand according to the Province's development agenda will hinge on a number of key factors, dominant of which include final investment decisions to be made by the energy companies involved and that there be support by First Nations.

Currently, 19 BC LNG proposals are at various stages of review, but no final investment decisions have been made. At present, there are a number of proposed LNG pipelines and facilities. Three pipeline projects are currently proposed in Northern BC to support the export of natural gas to Asian markets. These include *TransCanada's Coastal GasLink* natural gas pipeline for *Shell's Canada LNG* plant at Kitimat*, TransCanada's Prince Rupert Gas Transmission Project* for *Petronas' Pacific NorthWest LNG project* at Port Edward near Prince Rupert, and *Pacific Trails Pipeline* for *Chevron's Kitimat LNG Project*. The proposed routes cross the traditional territories of at least 20 First Nations. A recent *Vancouver Sun* review has noted that to date, eight northern First Nations in BC have signed revenue sharing agreements with the Province or benefit agreements with proponent companies. Ensuring the legal requirements for consultation and accommodation have been met is dependent on agreements with the proper Aboriginal title holder where the project is being proposed.

As noted in previous reports, Malaysia's state-owned Petronas is often cited as best positioned to become the first major exporter of LNG from Canada and continues to receive heightened attention. Last December, the company and its partners placed an indefinite hold on the project in what was believed to be a response to: 1) potentially higher capital costs than expected 2) Bill-6, the *Liquefied Natural Gas Income Tax*, introduced by the provincial government on October 21, 2014, and 3) a generally gloomier outlook on LNG in the wake of falling oil prices. Since December, Petronas has signalled that with capital costs having gone down, and a federal decision to provide tax relief for Canadian LNG export terminals, the project may be more viable and has proceeded with the project's review under the Canadian Environmental Assessment Agency; however, the project remains challenged to reach agreement with First Nations regarding the proposed terminal location.

First Nations throughout BC continue to consider major resource development projects based on a number of factors and questions and the Petronas project is no exception. The recent Lax Kw'alaams community vote is an example of how First Nations are not simply looking at the financial benefits of deals that are offered to them by proponents. The members of the Lax Kw'alaams First Nation were presented with a $1.15 billion offer in exchange for their consent to the Petronas-led Pacific NorthWest (PNW) proposed liquefied natural gas project on Lelu Island near Prince Rupert. This included the provincial government agreeing to "transfer" Crown land (i.e., un-ceded Aboriginal title lands) worth more than $100 million on the open property market. Three community votes were held and each resulted in a "no" vote to the proposal. Some have called the deal a game changer by posing the question, what is the price of consent in BC? The Lax Kw'alaams' own press release, available at http://laxkwalaams.ca, clearly communicated that it is not a question of money but rather the environment. Engagements with PNW have been ongoing since 2011 and the Lax Kw'alaams stand firm in their opposition to an LNG Terminal at the site PNW has proposed, citing Lax Kw'alaams use of international environmental standards as well as environmental testing which highlights unreasonable risk to the Skeen River estuary.

On a similar note, the Nadleh Whut'en and Nak'azdli have recently filed a challenge in BC Supreme Court against the BC government in regard to the environmental assessment and resultant approval of *TransCanada's Coastal GasLink Pipeline*. These Nations cite their main concern as not being the project itself, but rather the inadequacy of BC's environmental

assessment process to ensure adequate consultation and accommodation of Aboriginal interests. The implication being that they do not necessarily disagree with the project proceeding but rather they have not been dealt with fairly.

Clearly, our people in BC are not opposed to resource development outright, but rather are more apt to support projects where our Nations are full partners and involved in decision-making from the beginning and where environmental stewardship is a priority. Ensuring that projects which occur on or impact their ancestral lands will respect the environment, support generations to come, align with traditional values and governance models, and and respect the historical and ongoing cultural use of the land is critical for all our Nations. We are seeing all across the Province our Nations increasingly demanding appropriate and early levels of engagement in projects, to ensure meaningful roles in decision-making and also that their Nation's receive equitable benefit from any project. This necessarily means ensuring that the governance framework that supports this engagement is adequate. Often the *Indian Act* structures and systems are inadequate. Particularly where more than one band shares a territory as part of the same cultural and linguistic group. Industry and the Crown need to understand the reality facing our Nations and what are the expected outcomes of engagement. They need to adapt to this new reality, especially in light of *Tsilhqot'in*. Clearly there has been an increase in First Nations who are ready to partner on the right resource development projects, and under the right conditions, and this trend is likely to continue into the future.

Enbridge's Northern Gateway Project: One resource project that does not appear to have any serious BC First Nation support and none from the proper title holders is Enbridge's Northern Gateway Project. Northern Gateway is now a case study on how not to proceed with major resource development. Despite its approval on June 17, 2014 by the federal government, it is highly unlikely that the $7.9 billion dollar pipeline proposed to bring bitumen oil from Alberta to the coast of BC, will be able to overcome factors related to its ongoing opposition. The Haida, Gitxaala, Heiltsuk, Kitasoo/Xai'xais, Nadleh Whut'en, and Nak'azdli Nations have all filed for leave to judicially review the federal cabinet approval of Northern Gateway. These Nations are joined by five environmental organizations. On September 26, 2014 the Federal Court of Appeal granted leave to each party and by October 3, 2014 each had filed notices with the Court. Hearings may occur in early 2016. As these proceedings move forward, the BCAFN will look to provide further updates.

The Coastal First Nations, representing First Nations on the north and central coast, and the Gitga'at First Nation have also launched a legal challenge to Northern Gateway in BC's Supreme Court. This challenge seeks to address the Province's decision to forgo its authority to make a final decision on the project. Equivalency agreements in 2008 and 2010 between BC and Canada allow for the substitution of one environmental assessment process over another where a project falls under both provincial and federal jurisdiction. In the case of the Northern Gateway project, BC agreed to forgo its own environmental process and decision-making in favour of the federal process and decision-making. The Gitga'at and Coastal First Nations plan to argue that the decision to grant or deny an environmental assessment certificate triggers BC's constitutional duty to consult and accommodate First Nations and also that the Nations were not adequately consulted in the decision to substitute the environmental assessment processes in the first place.

Relatedly, BC Minister of Environment Mary Polak, in response to the federal government's decision to approve the Northern Gateway pipeline proposal, stated BC's approval of the project still depends on B.C.'s five conditions for approval of heavy oil pipelines are satisfactorily met. While BC may have relinquished its authority over the environmental assessment process, the Province, none the less, has authority for a number of key permits required for the actual construction and operation of the pipeline.

Kinder Morgan Trans Mountain Pipeline expansion: As discussed in the last quarterly report, opposition to Kinder Morgan's Trans Mountain pipeline and associated increased tanker traffic has been strong including the protest camp held on Burnaby Mountain. The expansion project would see tanker traffic expand by nearly three times the existing rate and would also require the development of a pipeline through a proposed tunnel through Burnaby Mountain. The project has to date received wide-spread opposition from the Tsleil-Waututh Nation (TWN), as well as local municipalities, and citizens. The initial protest campsite on Burnaby Mountain was set up in September 2014. On November 17, 2014, a B.C. Supreme Court judge granted an injunction to enforce access for survey workers. The media reported that nearly 100 people were arrested while protesting, including a number of elders and Grand Chief Stewart Phillip. Contempt proceedings were not pursued after it was found that Kinder Morgan had provided incorrect GPS coordinates in its court order. In the ensuing months since the stand off at Burnaby Mountain, Kinder Morgan has continued to proceed with survey and testing in the proposed area. Many citizens continue to establish camps and protest areas to oppose the project. The TWN launched a legal challenge against the National Energy Board's process for approval of the Kinder Morgan project last May.

Further to seeking resolution through the courts, the TWN has over the past year conducted its own independent and nation-based review of Kinder Morgan's proposal, which included the use of several independent experts. The report stems from the Tsleil-Waututh Stewardship Policy and includes a detailed list of TWN title, rights, and/or interests that may be impacted. The report conclusively recommended that the TWN not approve the project based on measurement of the impacts to specific cultural activities and livelihood of the TWN, legal and governance rights, and environmental risk. Interestingly, six university law professors have jointly released a statement supporting TWN and highlighted the potential their efforts have to further the definition of aboriginal rights and title through the courts. The report is being viewed as a pioneering example of a First Nation exercising its inherent jurisdiction and own laws to review projects proposed in its territory. The report is available at http://twnsacredtrust.ca

Concerns Over Oil Spill Response–English Bay, Vancouver: As the debate continues with respect to proposed pipelines and increased oil tanker traffic there was a recent reminder to everyone about the potential impact of oil spills. On April 8, 2015, oil was spotted in English Bay, along the shoreline of Vancouver within the traditional territories of the Coast Salish. It was later determined to be bunker fuel from the cargo ship Marathassa. An estimated 2,800 litres of bunker oil was released. Given how long it took the coast guard to respond and begin containment, many people did not consider the immediate response to the spill sufficient. Musqueam First Nation issued a public notice to notify fishers that the Musqueam Fisheries

Department was closing all aquatic harvesting in English Bay and areas impacted by the spill. On April 14, 2015, the Department of Fisheries and Oceans Canada also announced closure of the local fishery in response to the "fuel spill" in the area.

At the center of the ensuing public debate after the spill was the question, what constitutes a "world class" oil spill response, that BC demands for any expansion of oil tanker traffic? In the days following the spill, much attention focused on the length of time it took to stop the spill, and whether relevant agencies were notified in a timely manner, for example the local municipalities and First Nations, as well as how quickly clean up and restoration could be initiated. Much like Mount Polley, this oil spill is a reminder of the risks associated with major resource development and the need to ensure Canada and BC's environmental regulatory system meets the sustainability and protection standards of our Nations. It is also another instance where heightened public attention is on the response systems in place; where they are efficient and where there is need for improvement.

Site C: The BC government's approval of BC Hydro's Site C Dam project remains contentious. On December 16, 2014, the Province stated that it would go forward with the project with the aim to break ground in 2015. The dam is to be built on the Peace River in northeastern BC with a reservoir 83 kilometers long and a surface area of 9,310 hectares. First Nations in Treaty 8 stand to be greatly impacted with over 337 archaeological sites falling within the area to be flooded. Much valuable farmland would also be lost. There is also a serious question as to whether the power is actually needed and whether a decision to proceed could have been delayed. Public debate has centered on the actual energy need for the project, the cost to taxpayers, and the impacts to lands and treaty rights of the Treaty 8 Nations.

On May 1, 2014 the Joint Review Panel for BC Hydro's Site C proposal provided its report which included recommendations, conclusions, and rationale to the federal Minister of Environment and Environmental Assessment Office. For many, the findings in the report supported the claims of Treaty 8 Nations. Firstly, the panel suggested that while it could be argued that energy needs will grow overtime, more information was required to demonstrate energy needs now. Secondly, the panel acknowledged that significant impacts to current uses and resources for traditional purposes by Aboriginal peoples would occur if the project proceeded and thus the federal government has the onus to weigh the impacts to Aboriginal title and rights, including treaty rights. Finally, the panel reported on the need for comprehensive cumulative impact studies, which could include past, present, and future development in the area. This did not sway the government and approval was given.

The Peace Valley Landowner Association is legally challenging Site C, stating issues highlighted in the report have not been settled. These actions will be heard by the Federal Court of Canada during the week of July 20, 2015.

The Treaty 8 Tribal Association has also applied for judicial review of Ottawa's decision to support the project, stating that they did not adequately consider the impact to First Nations, especially as it was described in the report, and thus have violated treaty rights. The Province has provided capacity funding to support three Treaty 8 Nations (West Moberly, Doig River First

Nation, and Blueberry River First Nation) in conducting an independent technical review of permit applications but Premier Clark has maintained a position that timelines for construction of Site C are firm. Frameworks for consultation with the remaining Treaty 8 Nations on permits required for construction have not been agreed to.

On March 3, 2015, the Blueberry River First Nation, a Treaty 8 Nation, also filed a lawsuit challenging the Province on the cumulative impacts of the dam and other developments in the region on their ancestral lands. The need to shift environmental assessment and protections to view a territory in its entirety rather than on a project-by-project basis is increasingly being reiterated by communities impacted by multiple project proposals and operations within their traditional territories. In the Peace River there are already two large-scale hydroelectric structures: the WAC Bennett and the Peace Canyon dams. The lawsuit will put into question developments such as BC Hydro's Site C Dam but also developments related to natural gas, oil and gas wells, pipelines, and clear-cuts. The statement of claim contends that the band's lands and its rights to hunt and fish have been eroded cumulatively over multiple decades.

Implementation of the Extractive Sector Resource Transparency Measures Act (ESTMA): At the G8 Leaders' Summit in 2013, countries were called upon to rise to a global standard of transparency in the extractive resource sector. The focus was on ensuring any significant funds paid to governments by extractive businesses engaged in commercial development of oil, natural gas, or minerals, be available for the public to view. Standards have subsequently been adopted in the European Union and the United States.

In Canada, the *Extractive Sector Transparency Act* requires that extractive businesses subject to Canadian law and engaged in the commercial development of oil, natural gas, or minerals, report payments above an annual threshold of $100,000 to any level of government domestically and abroad, including Aboriginal and indigenous bodies acting in a government-like capacity. This would include First Nation governments, including band councils. Based on early feedback through engagement sessions with First Nations and industry, a deferral was included in the Act whereby extractive businesses will not be required to post payments to aboriginal governments until two years after the Act is in force. The Act received Royal Assent on December 16, 2014 and came into force on June 1, 2015. Payments to aboriginal governments will require reporting in 2017.

First Nations communities are concerned that the Act requires industry to report on payments made through impact benefit agreements. They are also concerned that where a First Nation has its own separate economic development company in an extractive business that entity will be required to report payments above the threshold. The following is a list of payments that must be reported if above the threshold limited to exploration, extraction and processing activities:

- taxes levied on the income;
- production or profits of companies, excluding consumption taxes;
- royalties;

- fees, including licence fees, rental fees, entry fees, and other considerations for licences and/or concessions;
- Production entitlements;
- Bonuses, such as signature, discovery and production bonuses;
- Dividends paid in lieu of production entitlements or royalties (excludes dividends paid to governments as ordinary shareholders); and,
- Payments for infrastructure improvements, if such payments relate to the commercial development of oil, natural gas or minerals.

While there is no debate that transparency is necessary with respect to public governments and knowing where money from extractive industries coming from, indeed it is a key to ensuring accountable and successful governments, unilaterally developed transparency legislation naturally raises concerns for many, including First Nations. Canada has stated that the ESTMA is not connected to the recently enacted *First Nations Transparency Act*, but rather focuses on increased transparency measures for industry. Through engagement sessions, however, concerns were raised by First Nations and industry which include the potential impact of the Act on impact benefit agreements between First Nations and industry, in terms of negotiations or confidentiality agreements. Lastly, federal representatives have stated that the Act is not intended to impact Own Source Revenue policies; however, this is none the less a serious concern for many First Nations.

Mount Polley disaster: The tailing's breach at Mount Polley Mine is amongst the largest environmental disasters to occur in British Columbia. On August 4, 2014, Imperial Metals' tailings pond dam ruptured and as a result it is now confirmed that over 17 million cubic meters of toxic wastewater was released into Hazeltine Creek. The mine is in the northern part of the Secwepemc te Qelmucw (NStQ) territory and is within the traditional territories of T'exelc Williams Lake Indian Band and the Xat'sull Soda Creek First Nations.

On all fronts, environmental emergency response, investigation, and regulatory reform, there is much heightened attention as Crown governments, industry, and First Nation communities attempt to make sense of what led to the tailings breach and how to reduce the risk of future incidents.

In the days following the spill, First Nations communities in the impacted area as well as those downstream had immediate concerns for water and food fish safety. The breach occurred just as record-breaking numbers of salmon were migrating along the Fraser River towards spawning habitat in the Quesnel River System.

Immediately after the breech, water testing was undertaken by the BC Ministry of Environment (MoE) which determined that water was safe for drinking, personal use, fishing, swimming and recreational purposes outside of the Impact Zone. The Interior Health Medical Officer also deemed the consumption of fish to be safe. The First Nations Health Authority (FNHA) has supported calls from many First Nations who have requested independent testing. Two independent experts in risk assessment were brought in while FNHA provided updates and communications to First Nations communities. The FNHA has stated they will be working with

the Department of Fisheries and Oceans (DFO) and MoE to understand both the short and long term potential effects on fish stocks. For further information on fish testing, please see www.fnha.ca/what-we-do/environmental-health/mount-polly-mine-information.

In the wake of an environmental emergency there are a number of agencies that become involved. The interconnectedness of these agencies and more information on emergency preparedness is explored in section 3.9 of the second edition of the BCAFN Governance Report (Part 1 of the 3 part BCAFN Governance Toolkit). The Mount Polley disaster reinforces calls by First Nations for the need to be involved at an early stage in the development and execution of environmental assessment, regulation, and remediation. Where an emergency occurs, there needs to be clear lines of communication and procedures to ensure immediate actions to limit the environmental impact and ensure the safety and wellbeing of local communities. The disastrous collapse of the Mount Polley mine tailings pond has resulted in environmental, health, social, cultural, and economic impacts that have caused much concern for First Nations. In the follow up to the disaster, First Nations and the broader Canadian public continue to demand answers to better understand how such an event happened and how it can be avoided in the future. In any event, First Nations and the provincial government perhaps more so than before understand the definite need for First Nations to be involved.

It is important to acknowledge the leadership of Xat'sull Soda Creek First Nations, the Northern Secwepemc te Qelmucw, and T'exelc Williams Lake Indian Band, as well as the First Nations Fisheries Council, First Nations Energy and Mining Council, and the First Nations Health Authority who continue to support and liaise with Crown agencies in follow up to Mount Polley. On August 18, 2014, the Province, T'exelc Williams Lake Indian Band, and Xat'sull Soda Creek First Nation signed a letter of understanding to reinforce a partnered approach to respond to the tailings breach. The agreement included five components:

1. A principal's table consisting of the Chiefs of the First Nations and the Ministers of Environment, Aboriginal Relations and Reconciliation, and Energy and Mines will oversee a government-to-government response.
2. A senior officials committee from the three ministries and designates for the First Nations will be responsible for overseeing all of the response activities such as assessing impacts, clean up, remediation planning and decisions related to the future of Mount Polley mine. They will also address long-term funding requirements to respond to all aspects of the Mount Polley Mine incident.
3. $200,000 to each First Nation ($400,000 in total) to cover costs already incurred and future costs related to the tailings pond breach.
4. The recognition of the important economic contribution of mining to British Columbia and the commencement of a dialogue about existing laws, regulations and policies in relation to the mining sector in British Columbia.
5. Agreement that the entities responsible pay for all costs and damages incurred in relation to the Mount Polley Mine Incident in accordance with applicable legislation.

In addition to the above, the Province announced a jointly established Independent Expert Engineering Investigation and Review Panel. The panel consisted of three geotechnical experts with expertise in tailings management facilities. The mandate of the panel was to investigate and report on the cause of the failure of the tailings storage facility with the option to provide recommendations to government on actions that could be taken to ensure that a similar failure does not occur at other mine sites in BC.

The panel found that the failure was not due to human error, overtopping (notwithstanding an episode of overtopping which occurred in May 2014), or solely due to cracking or piping. While the panel acknowledged that undetected weakness in the foundation, overtopping, internal erosion, and the exercise of the minimum factor of safety in operations and closure were all at play, their finding was that the primary cause for the breach was a foundation failure which had not been recognized in the original design (i.e. the design did not take into account the complexity of the sub-glacial geological environment). The panel provided a number of technical recommendations including the need for improved understanding of geological, geomorphological, hydrogeological, and seismotectonic factors, better guidelines for design which are tailored to BC conditions, and to improve regulatory operations with respect to design inspection. One of the more unfortunate findings by the panel was that unless changes are made we can expect on average two more tailings dam breaches per decade in BC.

The BC Ministry of Environment has stated that interim changes to the environmental assessment process have and will be made to ensure all mining companies provide significantly more information and analysis on tailings management options and potential risks. Two more investigative reports are pending, one by the Ministry of Mines and one by BC Conservation Officer Services.

On February 3, 2015, members of the FNLC stood with Chief Bev Sellars of the Xat'sull First Nation in a press conference where the leaders all commented on the importance of not only implementing the panel's recommendations but committing to bold mining policy reform that requires the best available technology as well as bold policy reforms that would see First Nations communities as partners in environmental regulation. In order to reduce the risks of another Mount Polley, as is noted in the panel's report, "business as usual cannot continue in BC".

In light of the Mount Polley Tailings breach, the First Nations Energy and Mining Council has responded to the clear need to better understand the current state of mining in BC, including any risks that exist, and actions that can be taken to address them. On June 3, 2015, the FNEMC released a report titled, *Uncertainty Upstream: Potential Threats from Tailings Facility Failures in Northern British Columbia* which collected information on flow patterns for pollution, should a tailings pond breach occur at any existing mine in the region and how a breach would impact different watersheds, water ways, communities and fish stocks. The report identifies clear actions to support responsible and safe mining, including the need for comprehensive planning (headwater-to-mouth), protections for communities that could be impacted by unanticipated post mine-closures, and defined protected areas. The report is available at www.fnemc.ca.

Report from the National Working Group on Resource Development: The establishment of a Working Group on Resource Development stemed from a commitment made at the 2012 Crown-First Nations Gathering. The AFN and federal government jointly appointed a Working Group on Natural Resource Development that was launched in December 2013. The five members of the Working Group are volunteer appointments by the National AFN and AANDC and include: former Alberta Regional Chief Cameron Alexis (Co-Chair); New Brunswick and P.E.I Regional Chief Roger Augustine, Mr. Douglas Turnbull (Co-chair), Mr. Richard Nerysoo, and Mr. Patrick McGuinness. The members represent a range of backgrounds in finance, Aboriginal rights, and business/industry. Full biographies are available at http://www.naturalresourcedev.com.

The primary mandate of the Working Group was to explore topics related to greater involvement and engagement of First Nations in natural resource development. The product of this exploration is a report with recommendations sent to the National Chief and Prime Minister. This report, titled: *First Nations and Natural Resource Development: Advancing Positive, Impactful Change,* was released on March 3, 2015. The report is based on an information gathering phase, which included a review of existing reports and policy, which resulted in the identification of four high level themes: Governance, Environment, Prosperity, and Finance. These themes were explored and discussed during two working sessions held in Toronto and Edmonton in November 2014, for First Nations, government, and industry experts. The final report includes four recommendations for immediate action and 15 observations under the four identified themes. The immediate actions include the following:

- Dialogue must continue: Undertake a more comprehensive national dialogue in the form of a national round table(s), inviting First Nations, Canada, provinces, territories, industry, and non-governmental organizations;
- A new fiscal relationship must be explored: Convene a national discussion on resource revenue sharing as the best means of eliminating socio-economic disparities;
- Technical knowledge and information must be accessible: Establish a central knowledge and information resource to assist and enable First Nations; and,
- International relationships must be expanded: Hold an international forum to promote First Nations trade and international partnerships.

In relation to these recommendations, the AFN is looking to explore the possibility of organizing a First Nations National Energy Forum sometime in 2015-16. The Working Group's full report is available online at www.naturaresourcedev.com. It is yet to be seen how Canada will respond to the recommendations. The BCAFN will provide updates as they become available.

Water

Regulatory Development Under the BC Water Sustainability Act*:* The provincial *Water Act* was significantly updated in May 2014 when the *Water Sustainability Act* (WSA) received royal assent. The new act is now expected to come into force in 2016. As reported before, the WSA is much like the federal *Safe Drinking Water for First Nations Act* in that it is essentially a water

governance framework leaving most of the details to be developed through new regulations under the act.

BC is taking a phased approach to developing the proposed regulations associated with the WSA. The new regulations will need to be completed before the WSA comes into force. In February, 2015, BC completed its review of water pricing in BC. The water fee and rental structure had not been updated since 2006. New fee and rental rates have now been set and will come into effect in 2016. These rates are available to review online at http://engage.gov.bc.ca/watersustainabilityact/.

Through its engagement website, the BC government has suggested that highlights of the new rate structure include the following:

- Homeowners with wells will be exempt from licensing and fees.
- Households supplied by municipal water systems may pay $1 to $2 more per year for their water.
- Surface and groundwater users will pay the same fees.
- Other examples of the new rate structure include:
    - The water required to irrigate 40 acres of hay in Kamloops will increase annually from about $90 to $128.
    - An Abbotsford farmer with 100 cows will see an annual licence fee change from $25 to $50.
    - A Langley 10 acre nursery farm currently paying $44 annually will increase to approximately $62.
    - Water bottling will be charged at the industrial rate of $2.25 per 1000m3—the highest rental rate in the new schedule.

While BC has suggested that the new rate structure was decided following extensive public consultation, critics have argued that water remains hugely undervalued by the Province as evidenced by the low industrial rate of $2.25 per 1000$m^3$.

Many regulations under the WSA are not yet developed. BC has signalled their intention to hold a number of regional Water Regulation Workshops with First Nations in BC in summer 2015. Information will be presented at these workshops and our understanding is that feedback from First Nations will be sought on the remaining regulations to be developed under the WSA. We will provide updates regarding this work as more information becomes available.

Fisheries

The First Nations Fisheries Council (FNFC) continues its important work to create space for BC First Nations to engage in more effective dialogue with the federal government, concerning fisheries co-management, shared program delivery, and First Nations' participation in policy design and advice to government. The FNFC's monthly Communiques include updates about its ongoing work. The Communiques are accessible on their website at: www.fnfisheriescouncil.ca/communications/communiques.

Through the Memorandum of Understanding between the FNLC and the Minister of Fisheries and Oceans (DFO), the FNLC has been able to influence DFO somewhat. At the most recent meeting of the parties to the MOU, DFO did commit to work collaboratively on several strategic matters of importance to BC First Nations, in particular, the implementation of Aboriginal court cases dealing with fish and fisheries, aquaculture and wild salmon protection, economic development and enhanced performance of First Nations fisheries, and a provincial response process for resource extraction emergencies. Based on recent events (e.g., the oil spill in English Bay) and activities (e.g., delayed closure of the Commercial Herring Fishery) in BC, it is clear that this joint work is vital going forward and needs to be tackled with increased urgency and commitment by all parties.

Nuu-chah-nulth Fishing Rights: Back at BC Supreme Court: On March 9, 2015, Canada and the five Nuu-chah-nulth Nations (Ahousaht, Ehattesaht, Hesquiaht, Mowachaht/Muchalaht, and Tla-o-qui-aht) were back in court for the beginning of what promises to be another lengthy trial. In brief, at question is whether Canada's infringement of Nuu-chah-nulth Aboriginal fishing rights can be justified. This new trial, of course, follows the 2009 ruling in the BC Supreme Court that five Nuu-chah-nulth Nations have Aboriginal rights to fish and sell any species of fish from their traditional waters into the commercial market. The court further ruled that Canada and the five Nations were to negotiate how these rights could be accommodated and exercised. After five years of meetings between the Nations and DFO, the Nations were convinced that DFO had no intention of negotiating a reasonable accommodation and thus find themselves back in court. The Nuu-chah-nulth have been providing regular fisheries litigation updates by email to interested First Nations and First Nations organizations. Please contact Lissa Cowan at Lissa.Cowan@nuuchahnulth.org if you would like to receive these updates.

Commercial Herring Fisheries – An update: In 2014, First Nations were successful in bringing their application for judicial review of the decision by DFO Minister Gail Shea who, despite advice to the contrary by DFO advisors and scientists, chose to open the herring fishery on the west coast of Vancouver Island and on the north coast of BC. In December 2014, Minister Shea once again made the decision to open the herring fishery in these two areas despite First Nations' concerns over the insufficiency of herring stocks.

On February 26, 2015, five Nuu-chah-nulth Nations (Ahousaht, Ehattesaht, Hesquiaht, Mowachaht/Muchalaht, and Tla-o-qui-aht) went to federal court to dispute the DFO Minister's decision to open the herring fishery in Barkley Sound despite the Nuu-chah-nulth's concerns about low herring stocks. DFO argued that the decision by the Minister to open the fishery was based on science and data that indicated a herring spawn of over 30,000 tons in 2014. The Nuu-chah-nulth disagreed with DFO's calculations, stating that their own calculations indicated a herring spawn of only 14,000 tons. The federal court, on February 27th, denied the Nuu-chah-nulth an injunction which would have prevented DFO from opening a commercial roe herring fishery on the west coast of Vancouver Island.

A week later, the Council of the Haida Nation was in federal court seeking an injunction to stop the commercial herring fishery from taking place off of Haida Gwaii. Justice Manson, the same judge that denied the Nuu-chah-nulth their injunction, heard this case. At the beginning of the

hearing, which the BCAFN attended in support of the Haida Nation, Justice Manson was upfront in saying that he considered the facts of this case to be vastly different from that of the Nuu-chah-nulth case heard the week before. He stated that "The west coast of Vancouver Island is not the same as Haida Gwaii."

As the hearing went on, it was apparent that Justice Manson had read all of the submissions of both parties and was very knowledgeable on the issue. The judge made comments throughout the day regarding the "honour of the Crown" and the "duty of reconciliation", along with noting the sensitivity of the eco-system in Haida Gwaii. The judge also noted that the method used by DFO to anticipate herring stocks in 2015 was, at best, seriously flawed.

In his reasons for judgment, Justice Manson stated at paragraphs 53 and 54:

> [53] In my opinion, there is a heightened duty for DFO and the Minister to accommodate the Haida Nation in negotiating and determining the roe herring fishery in Haida Gwaii, given the existing Gwaii Haanas Agreement, the unique Haida Gwaii marine conservation area, the ecological concerns, and the duty to foster reconciliation with and protection of the constitutional rights of the Haida Nation.
>
> [54] While these factors do not give the Haida any veto over what can be done in Haida Gwaii with respect to roe herring fishery, or fetter Canada's rights, and must be balanced with commercial rights and public interest, in looking deeply at the facts involved here, I find that the failure to consult meaningfully with the Haida Nation by Canada, and instead unilaterally imposing a highly questionable opening of the roe herring fishery in Haida Gwaii for 2015, also constitutes irreparable harm. Canada's unilateral implementation of the roe herring fishery in Haida Gwaii for 2015 compromises, rather than encourages, the mandated reconciliation process... (2015 FC 290).

Justice Manson ruled that the balance of convenience favours the Haida Nation and noted that "[t]he Honour of the Crown in dealing appropriately with consultation and reconciliation with the Haida Nation is also very much in the public interest, given the special conservation and ecological agreements governing the Haida Gwaii area" [para 61]. The injunction was granted and DFO was prevented from opening a commercial herring fishery on Haida Gwaii in 2015.

It is significant that Justice Manson acknowledged that the honour of the Crown and the process of consultation and reconciliation with First Nations is a part of the public interest, as opposed to being separate and apart from it. It is common sense that reconciliation with First Nations will benefit the federal government and, indeed, all Canadians. It is encouraging to see that this view is becoming part of the legal record and common law.

In a surprising turn of events, the day after the Council of the Haida Nation won their court injunction to block the herring roe fishery in Haida Gwaii, DFO cancelled the herring fishery in

Barkley Sound on the west coast of Vancouver Island due to poor egg samples taken from a test fishery.

The five Nuu-chah-nulth Nations, and the Haida Nation are, of course, not the only First Nations in BC who have taken a stand for their inherent rights and the protection of herring stocks in their traditional territories. The Heiltsuk First Nation expressed deep concerns to DFO as well as to the fishing industry about conserving and preserving the herring stock, a traditional resource that has provided for their people for generations. Despite these expressed concerns, DFO made the decision to open the commercial herring roe fishery in Heiltsuk First Nation's territory. The Heiltsuk took direct action and occupied the DFO offices in Bella Bella, after DFO announced the fishery would be open. The FNLC, the FNFC and other west coast First Nations were quick to offer their support of the Heiltsuk and urged DFO to close the fishery and work with the Heiltsuk in a meaningful way as talks resumed.

After a four-day occupation of the DFO offices, on April 1, 2015, DFO closed the fishery. First Nations throughout BC celebrated Heiltsuk First Nation for their persistence in asserting their inherent Aboriginal rights to manage fisheries in their traditional territories. These events and final outcome with the closing of the commercial herring roe fishery highlight the need for DFO to commit to developing collaborative management and decision making processes and practices with First Nations for science, monitoring and stock management into the future.

The FNLC, through its MOU with DFO, requested an immediate meeting with the Minister, the Nuu-chah-nulth Nations, the Haida Nation, and the Heiltsuk Nation to begin engagement meaningfully in advance of next year's herring fishery. On May 22, 2015, the DFO Minister Gail Shea met with the three Nations, the First Nations Fisheries Council and the First Nations Leadership Council in Vancouver. The Minister committed to follow up on what was discussed at this important meeting, and the BCAFN will continue to provide updates. In this regard, a panel discussion on Fisheries is planned at the upcoming BCAFN AGM on June 24-25, 2015.

Forestry

Last year, the BCAFN, along with the UBCIC, FNS, and the First Nations Forestry Council (FNForC) continued to raise concerns regarding the proposed area-based tenure amendments to the *Forest Act.* The proposed change, which has been attempted before, would impact Aboriginal title, rights and treaty rights, fundamentally impacting First Nations. Any such change, we argued then, would require direct consultations with First Nations, well beyond the limited engagement the province had undertaken with select communities.

As reported in the last quarterly report, in October of 2014 the FNLC received official word from the Minister of Forests Lands and Natural Resource Operations, Steve Thomson, that the province would not be proceeding with legislative changes that would enable forest licence conversions in fall 2014 or spring 2015. The province suggested then that this decision would allow for more fulsome discussion on the issues that the FNLC and indeed many First Nations themselves have requested. Since then, the FNLC has been working with the FNForC to ensure adequate engagement occurs.

On November 26, 2014 at the 11th BCAFN Special Chiefs' Assembly in Vancouver, the Chiefs in Assembly passed BCAFN Resolution 5(f)/2014, *Continued Engagement Between the Province of BC and First nations on a Forest Range Revenue Sharing and Tenure Solution.* The UBCIC and FNS have passed similar resolutions. The resolution directs the BCAFN to work with the FNForC to engage BC in developing new forms of forestry tenure and revenue sharing; and to work to convene a strategy session for First Nations tenure holders in 2015.

We are pleased to report that there has been movement on both fronts. Through the joint work of the FNForC and the FNLC, and through political meetings with Minister Thomson and Minister Rustad earlier this year, the FNForC received funding, and was able to host three regional engagement sessions with BC First Nations tenure holders in May to discuss resource revenue sharing and forestry tenure models. The sessions were held in Prince George, Kamloops, and Nanaimo. A report containing recommendations based on the three regional sessions is now being drafted by the FNForC, and more information about this report and potential recommendations will be made available at a strategic dialogue session during our upcoming BCAFN AGM, June 24-25, 2015 in Vancouver.

Minister Rustad and provincial staff have also signalled their support for a province-wide meeting of Chiefs in July 2015 with both Minister Rustad and Minister Thomson to review any recommendations that come from the regional engagement sessions. While the FNForC and FNLC have not yet received confirmation of financial support for such a meeting from the Province, we will be working to secure this support and plan for this province-wide session. Our Nations have developed our own solutions, and the BCAFN is committed to working to ensure our Nations' voices are a meaningful part of decision making (whether policy, legislative or otherwise) that impacts directly on our traditional territories and our citizens.

The *Tsilhqot'in* decision, of course, serves to affirm that Crown governments must consult and accommodate First Nations' interests before proceeding with any resource development initiatives that impact directly on First Nations lands. Proposed changes to provincial legislation such as the *Forest Act* will clearly impact on future resource development. The BCAFN will continue to provide updates on this and other proposed initiatives that impact on forests. The continued resolve of the FNForC to create space for our Nations to participate in and influence provincial decision-making is very much appreciated and acknowledged. The council, not unlike many other First Nations' organizations, undertakes this important work with very limited financial resources.

3. Improved Education

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

Federal First Nations Education Legislation – Moving Forward

At the BCAFN, the third pillar of our action plan is improved education. For the last few years, much debate has centered around Canada's proposed First Nations education legislation, and, once introduced in the House of Commons on April 10, 2014, focus was squarely on Bill C-33, the *First Nations Control of First Nations Education Act*. While the federal government has since shelved this bill, following controversy and strong opposition to the bill from First Nations, there remains the need to significantly reform the education system in Canada as it applies to our children. There are success stories and these need to be built upon. There is also a need for significantly increased funding for First Nation schools in Canada to bring all of them up to the levels other schools receive and based on relative need.

One of the most problematic aspects of Bill C-33, that would need to be addressed with any future legislative proposal, is that it did not contemplate the evolution of First Nation governance beyond the *Indian Act*. It was very weak on this front and really perpetuated a broken system of governance. Future legislation cannot embed the existing federal education policy, where *Indian Act* bands have local responsibility for schools but the ultimate control remains with the federal bureaucracy and the Minister. This is not reflective of the direction in which First Nations are moving, and it does not reflect the highest goal of self-determination in education or what, in fact, works.

In this regard, for First Nations in BC and our representative organizations, one of the biggest concerns expressed is that any new federal legislation must not negatively impact the work that has been done by our Nations and the First Nations Education Steering Committee (FNESC) on our BC Education initiative. Any future iteration of federal education legislation will need to support and enhance our BC Education initiative. Our Nations and the leadership at FNESC will continue to work diligently to ensure this happens.

Despite the politics around Bill C-33, education remain a top priority of the AFN and the BCAFN will continue to work with our colleagues on the AFN Executive and on the First Nations Leadership Council, to ensure any future process of co-developing federal legislation will reflect true First Nations control of First Nations education and provide adequate resources to fund the programs and infrastructure needed to provide a quality education for our people.

Tripartite Education Framework Agreement

The Tripartite Education Framework Agreement (TEFA), entered into by the Province of BC, the Government of Canada and FNESC in January 2012, is intended to improving education outcomes for First Nation learners. The Province committed within TEFA to consult with FNESC regarding proposed changes to provincial education policy, legislation, or standards that materially affect programs, assessments, teacher certification, graduation requirements, or curriculum offered by FNESC or First Nations schools. It is FNESC's opinion that the BC Ministry

of Education's review of its Accountability Framework to improve Aboriginal learner outcomes falls within this provision in TEFA.

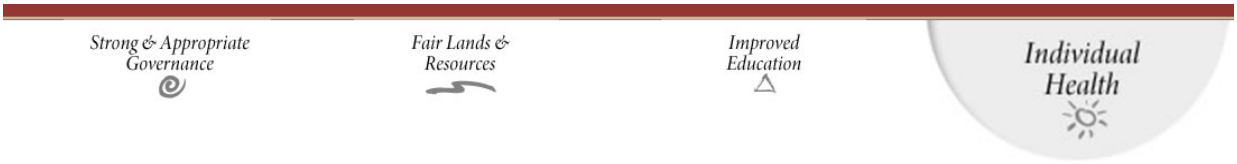
FNESC has already undertaken a review of the Province's renewed Accountability Framework and has drafted a discussion paper which includes 22 recommendations to improve the Accountability Framework in relation to First Nations learner outcomes (for a copy of this discussion paper, see: www.fnesc.ca/resources/publications). Among these 22 recommendations, and of particular priority, are the following:

- Amendments to *School Act* (or a possible regulation under the Act) requiring annual reporting on Aboriginal learner outcomes;
- Amend the Student Credential Order to clearly state that only special needs students on Individual Education Plans are eligible for School Leaving Certificates; and,
- Working to improve policies and procedures to promote effective Local Education Agreements (LEAs) as key mechanisms for accountability of school districts for First Nation learners.

Along with the First Nations Leadership Council, the BCAFN met with the Ministry of Education on March 25, 2015 to discuss how the Province plans to engage directly and substantively with FNESC and First Nations and how our Nations can be meaningfully involved in legislative and policy changes, and the Accountability Framework. The meeting was productive and we understand that a follow-up meeting with the Deputy Minister resulted. We will provide further updates on this review as we continue to engage with the Province.

As spoke to in the last quarterly report, we are still working to ensure that the federal government fully implements the TEFA funding model, which, to date, has not occurred. The BCAFN will continue to work with FNESC, the FNLC and our Nations in BC to demand that AANDC fulfill its commitments under TEFA and fully implement the funding model for the current and upcoming school years.

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."

Health

Over the last few years, in my previous reports we have detailed a number of important developments in BC, including the activities of the BC First Nations Health Council (FNHC) and the establishment of the BC First Nations Health Authority (FNHA), a non-profit society

incorporated under the BC *Society Act*. As our Nations are well aware, prior to October 2013, Health Canada, through its regional office, delivered public health and community health programs on-reserve in BC. FNHA has now assumed full responsibility for the design, management, delivery, and funding of health programs and services formerly administered by Health Canada. While this is certainly something to be proud of, like all governments, our Nations will be challenged to design and provide services that meet the needs of our citizens. The FNHA is well aware of the challenges, and the annual Gathering Wisdom forums held in BC each year are one way in which the FNHA looks gather collective strength and wisdom and push the status quo.

7th Annual Gathering Wisdom for a Shared Journey Forum: The 7th Annual Gathering Wisdom for a Shared Journey Forum was held May 6-7, 2015, in Vancouver. Gathering Wisdom has, over the last seven years, grown to become the largest First Nations health conference in BC and according to the FNHA is the only one of its kind in Canada. In attendance were Chiefs, health leaders, front-line health workers, federal and provincial partners, academics, and key decision-makers in First Nations health within BC and across the country. At this year's forum the transfer of health services from Health Canada to BC First Nations was further explored and celebrated.

Truth and Reconciliation Commission—Final Report

Stemming from the 2007 Indian Residential Schools Settlement Agreement, the Truth and Reconciliation Commission (TRC) was established to promote reconciliation through a collective process of healing and truth telling with respect to the impacts and legacy of the Indian Residential School (IRS) system. More than 7,000 testimonies from survivors were recorded and seven national events coordinated in an effort to honour survivors and support a national dialogue on this dark chapter of Canadian history.

From May 31 to June 3, 2015, the TRC hosted its closing event in Ottawa. Concurrent events were held across Canada. On June 2, 2015 the Chief Justice Murray Sinclair reported on the findings of the TRC and on reconciliation going forward and, significantly, called the IRS "cultural genocide". The TRC Final Report included 94 Calls to Action including recommendations to support child welfare, preserve languages and culture, to adopt the UNDRIP, and reform First Nations education. The Report also called on the Pope to make a formal apology. The TRC Final Report is available at www.trc.ca.

Outgoing Regional Chief, Jody Wilson-Raybould was pleased to participate in a closing event held in Vancouver on June 2, 2015, that coincided with the release of the final report. The fundamental question before government, First Nations, churches, and the broader public is what happens next and how the process of reconciliation can continue to be supported. To move forward beyond words will require political will. Further to ensuring First Nations are afforded (at minimum) the same standards of living as the broader public, is acknowledging that true reconciliation between First Nations and the Crown protects the very thing that the IRS set to dismantle—our Nationhood and identity.

Moving forward, reconciliation will require commitment from the highest levels of government to rebuild and restore the relationship between First Nations and the Crown which in BC is squarely centred on the resolution of land rights and recognition of Aboriginal title. Beyond the necessary and important truth telling and healing, reconciliation requires laws to change and policies to be rewritten. This may and should include mechanisms for reconciliation and a framework for reconciliation, discussed earlier in this report, which would support the implementation of the 94 Calls to Action. We have a long way to go. In the words of Justice Murray Sinclair, "Reconciliation is about forging and maintaining respectful relationships. There are no shortcuts."

As the TRC completes its work, it is important to acknowledge the Survivors of the Indian Residential School system for their courage in participating in this process and to those who have been impacted by its legacy. While the TRC is closing, the healing continues for our communities and this country. Testimonies and a public record of the IRS system will be housed at a National Center on Indian Residential Schools at the University of Manitoba Fort Garry Campus in south Winnipeg.

Personal Credits for Education – Indian Residential School Settlement Agreement—an Update
For those that qualify, but have not availed themselves, on December 17, 2014, the British Columbia Supreme Court ruled to extend the deadlines for Indian Residential Schools Personal Education Credits as follows:

- Redemption Forms – NEW Deadline June 8, 2015
- Spend-By Date – NEW Deadline August 31, 2015

The AFN has created a fact sheet as public information, and to help ensure that Common Experience Payment (CEP) recipients have the information they need to access the final portion of compensation under the Indian Residential School Settlement Agreement (IRSSA). The factsheet is available on the AFN website at www.afn.ca. While the AFN provides four regional liaison staff to assist the CEP recipients, the AFN is not the administrator for the personal credits.

Demolition of St. Michael's Indian Residential School
On February 18, 2015, the outgoing Regional Chief attended at a TRC event to mark the demolition of St. Michael's Indian Residential School in Alert Bay, BC. This building stood as a symbol and reminder of a dark period in our collective history, and all in attendance were clearly moved by its removal and by the poignant recollections of survivors of the trauma suffered within its walls. Over 500 people assembled on the former school grounds for an all-day event, which was called t'tustolagalis in Kwak'wala, translating to "Rising up, together." Indeed, that is what stood out most for me at this event – the incredible strength and resilience of our citizens, who are rising up and who spoke about their pain but also about healing and optimism for the future.

Day Scholar Class Action –An UpdateThe Day Scholar Class Action hearings began on April 13, 2015 in the Federal Court in Vancouver. The outgoing Regional Chief was honoured to attend having

been invited by the primary plaintiffs. The Tk'emlups te Secwepemc and Shíshálh Nation and their leaders have worked very hard to get to this point and have the support of BC First Nations and the BCAFN in this important reconciliation work. The two Nations are acting on behalf of all Aboriginal children who attended Residential Schools as day scholars, returning home to their families every night. This hearing was a certification hearing meaning that the Justice will hear argument from the First Nations' lawyers and Canada's lawyers and based on this make a determination as to whether the two Nations can represent all Day Scholars across Canada in a law suit against Canada. On June 3, 2015, the federal court in Vancouver certified the class action lawsuit. Canada has stated that they will review the court's decision and determine their next steps. The BCAFN will continue to provide updates.

The Federal Boarding Home Program—Nisga'a Committee Looking for Support from BC First Nations

On March 18, 2015, BCAFN officials were pleased to meet with Reginald Percival and Chief Henry Moore of Nisga'a Nation. Mr. Percival and Chief Moore provided our office with a thorough review of the work that a Nisga'a volunteer committee has undertaken with the aim to support Nisga'a community members who are survivors of the federal boarding home program.

First Nations boarding home students of the 1960's and 1970's were, much like day scholars and residential school survivors, removed from their communities and homes by the federal government, based on Canada's education policies during this time period. Boarding home students were boarded in cities and attended public high schools. The work of Nisga'a's volunteer committee has reinforced what they have long held to be true – boarding home students lived the "common experience" and suffered in much the same way that residential school survivors did, experiencing racism, loss of language, loss of culture, and loss of family life. Many boarding home students also experienced physical and psychological abuse from teachers, school administrators, guardians, and from other students. Despite these facts, boarding home students have not been acknowledged through Canada's public apology and have not received compensation.

The BCAFN has worked with Nisga'a representatives on a support resolution for our upcoming BCAFN Annual General Meeting, June 24-25, 2015 in Vancouver and we anticipate that a similar resolution will be brought forward by members of the Nisga'a volunteer committee at the AFN Assembly in July 2015.

Violence Against Aboriginal Women and Girls

Poverty, inequality and the marginalization of our people are deep problems that cannot be resolved easily. These deep issues, and the frustrations they create, can manifest in many ways, including violence and especially violence against Aboriginal women and girls. We can and need to do better for the most vulnerable living in our communities and across BC, and this will require creative and strengthened partnerships with both the federal and provincial Crown governments and municipalities. Some of the initiatives in this regard are discussed below.;

25th Annual Women's Memorial March—February 14, 2015: On February 14, 2015, the BCAFN along with many other groups and individuals took part in the 25th Annual Women's Memorial March in Vancouver. AFN National Chief Perry Bellegarde, the Union of BC Indian Chiefs' Executive, and the First Nations Summit Task Group Members and outgoing Regional Chief, marched alongside family, friends, and community members who have lost loved ones to violence. Now in its 25th year, it is notable that the march also continues to attract more and more non-Aboriginal British Columbians who stand in solidarity with Aboriginal women. The march reflects the commitment of those present to end the violence that disproportionately falls on Aboriginal women.

Circle of Leaders Gathering – Call to Action to End Violence Against Aboriginal Women and Girls: On March 11, 2015 the FNLC and a group of leaders had the opportunity to participate in a Circle of Leaders meeting hosted by the Esk'etemc First Nation. Chief Charlene Belleau initiated the meeting to request a call to action with respect to ending violence against Aboriginal women and girls. The dialogue focused on root causes that lead to violence and how to work collaboratively to support community-based responses. There was a shared acknowledgement in the room that the key to building and rebuilding healthy and safe communities is addressing the underlying reality of a devastating colonial legacy and the cumulative impacts of residential schools. Chief Belleau articulated that Esk'etemc's vision is to strengthen their culturally based services and approaches to do this very important work and to be a resource for other communities seeking to address violence. Following this meeting, the BCAFN has written in support of the Esk'etemc First Nation and their application to AANDC for pilot project funding to lead a community-based initiative to address the root causes that lead to violence against Aboriginal women and girls.

Memorandum of Understanding with Province of BC—An Update: Last June, Premier Clark signed a Memorandum of Understanding with the BCAFN, UBCIC, FNS and Metis Nation British Columbia regarding stopping violence against Aboriginal women and girls. The MoU is not detailed but rather a pledge to work jointly to set goals and then create policies to reach them. On June 16, 2015, the FNLC will meet with Minister John Rustad, Minister of Aboriginal Relations and Reconciliation on the MOU.

Since signing the MoU, a lot of activity around ending violence against Aboriginal women and girls has occurred, though not expressly linked or resulting from the MoU. Several meetings of the Working Group to support the Joint Partners Table to the MoU have occurred since last June and as one of the signatories to the MoU, the BCAFN remains hopeful it will contribute to helping form and introduce provincial policies to address the root causes of violence against our women and girls. In BC, we are fortunate to have so many committed First Nations organizations and communities already undertaking work on the ground and in their communities, and it hoped that work under the MoU will help to support and prop up their efforts.

Provincial Violence Free BC Strategy: In February 2015, the Province announced its strategy for ending violence in the province, titled, *A Vision for a Violence Free BC,* and stated it was committed to providing up to $3 million in civil forfeiture funding to support initiatives that were focused on anti-violence and prevention, and in particular on ending violence against

women. The provincial strategy identifies five key priorities: 1) a focus on challenging beliefs and behaviours; 2) ensuring services are responsive, innovative and co-ordinated; 3) supporting women to rebuild their lives; 4) addressing violence against Aboriginal women; and 5) fostering strong relationships and new partnerships. The long-term strategy is something that the new Joint Partners Table under the MoU on ending violence will be examining together in 2015.

As proclaimed by the Province, April 12-18, 2015, is Prevention of Violence Against Women Week in BC and activities were planned throughout the week to raise awareness of the impacts that violence has on women, including more specifically impacts on physical, psychological, spiritual, sexual, financial, and cultural well-being.

Proposed Federal Inquiry in MMIW: While the provincial government is in ways moving forward, the federal government continues to hold fast that it will not hold a national public inquiry into the issue of murdered and missing Indigenous women and girls. The BCAFN continues to work with our colleagues at the AFN, FNLC, Native Women's Association of Canada, and with our Nations among others to advocate for a full federal inquiry. Indeed, there is considerable pressure being applied to the federal government. Most recently the TRC in its 94 Calls to Action reiterated the need for an inquiry. In fact, almost all commentators have called for an inquiry except for the federal government. The joint table with the Province created through the MoU can be used to further advocate for an inquiry. For its part Canada has limited its response to the issue by holding a National roundtable (discussed below) and by treating the issue as a crime and justice matter and not a social phenomenon.

National Roundtable on Murdered and Missing Indigenous Women and Girls: On February 27, 2015, Canada and the provinces, along with National Aboriginal Organizations (NAOs) met in Ottawa at the Ottawa Marriott Hotel for a National Roundtable on Murdered and Missing Indigenous Women and Girls. The roundtable began with open prayers, a welcome to the traditional territory from Chief Gilbert Whiteduck, Kitigan Zibi Anishinabek and Chief Kirby Whiteduck, Golden Lake First Nation, with opening remarks from Chair Premier Bob McLeod. Delegates in attendance then heard presentations from four family member representatives who were selected to provide general context and reflection on the themes for discussion and recommendations for action from a Families Gathering that was convened the day before. The three themes for the day's discussion, as reflected in the official agenda, were: 1) Prevention and Awareness, 2) Community Safety, and 3) Policing Measures and Justice Responses. The conversation was all premised on the agreement among those participating that additional action is needed now for the safety and securing of Indigenous women and girls.

In addition to the National Roundtable, a Families Gathering and a Peoples' Gathering were also organized around the roundtable. The Peoples' Gathering was held at Carleton University in Ottawa on February 27, the same day as the roundtable, to provide a public venue for discussions and recommendations targeting action to prevent and end violence against indigenous women and girls. The event was open to all interested parties and was also webcast for those unable to attend in person.

At the roundtable, delegates agreed to meet again in 2016 to assess progress in the areas of prevention and awareness, community safety, and policing measures and justice responses. For more information about the roundtable and ongoing efforts of the AFN on this issue, please visit www.afn.ca/index.php/en/policy-areas/i-pledge.-end-violence.

Children and Families

At the BCAFN 11th Annual General Meeting in Vancouver, September 10, 2014, the Chiefs in Assembly passed Resolution 4(b)/2014, *First Nations Child and Family Services in British Columbia*. The resolution directs the BCAFN, among other things, to work as a member of the FNLC to advocate strongly for a meeting with the Minister of MCFD and more broadly for an improved relationship with MCFD premised on meaningful engagement of First Nations on issues relating to our children. Through this resolution, the Chiefs in Assembly also supported the creation of an ad hoc Chiefs' working committee on children and families to examine the current landscape for First Nations child and family services across BC and prepare a report within six months that identified possible next steps. Since this BCAFN resolution was passed, the UBCIC and FNS have also passed similar resolutions which support the creation of this ad hoc Chiefs' working committee. BCAFN Board Director and Spokesperson, Chief Maureen Chapman, has been identified as one of the members of the ad hoc Chiefs' working committee and as such the BCAFN retains a direct link to the work of this group and will provide regular reports as the work progresses.

There is perhaps no jurisdiction which illustrates better than children and families, the important work of Nation building that is ongoing in our Nations and the strong desire of our own people and governments to exercise our inherent right to self-government. The work, however, to assert our right is not easy and this is evident in the current struggles and tensions that exist between our own Nations, our FNOs, and with the Crown governments around children and families.

The current efforts of the FNLC, through the above noted resolutions, are aimed at bringing the proper title and rights holders together to dialogue and makes some important decisions around the future of our children and families. We need to collectively come together in BC to assert our rights, but more importantly to develop a plan, endorsed by our Nations, that will see immediate and meaningful change to provincial and federal policy, programs, and funding that impacts on our children and families. Presently, there are swirling accusations around who in BC has the mandate of our Nations to enter into discussions and develop plans with Crown governments. This has created a fractured voice and is not conducive to the change we all desire for our peoples. First Nations in BC have demonstrated that we can unite on important issues and that we have incredible strength when we do so. We believe that our Nations will come together and insist of each other that the period of divisive politics around children and families come to a close, so that we can work together on solutions that hold the best interests of our children at the center and that build on our collective successes in BC.

Without a unified voice and plan, it is likely that decisions will continue to be made by the provincial Ministry of Children and Family Development (MCFD) that affect the lives of First Nations children and families without consulting with First Nations. It is troubling that BC, and

MCFD in particular, has not responded to a number of requests by our First Nations leaders and citizens for dialogue and enhanced information sharing. As is often referenced by our leadership, MCFD has a fiduciary duty to consult with First Nations prior to making decisions that impact on our children.

BC Aboriginal Justice Council – Update

On May 14-16, 2007 the FNLC held a BC First Nations Justice Forum where First Nations fed into the development of a draft BC First Nations Justice Action Plan. Based on the Justice Action Plan, resolutions were then passed by the FNS, UBCIC, and the BCAFN supporting the concept of a representative and inclusive BC First Nations Justice Council to address province-wide matters with respect to the issues of First Nations justice.

In September 2014, the Native Courtworker and Counselling Association of BC (NCCABC) reinitiated this work with the FNLC; work supported by a shared Declaration and Protocol Agreement between the NCCABC and FNLC. With support from the Chiefs in Assembly through BCAFN Resolution 04(c)/2014 *Support for the Formation of a BC Aboriginal Justice Council*, an interim technical working group was established to support the formation of the council.

A Terms of Reference was brought to the Chiefs in Assembly at the BCAFN Special Chiefs Assembly on November 25-26, 2014 and was endorsed through Resolution 05(e)/2014 *Endorsement of BC Aboriginal Justice Council Draft Terms of Reference.* The purpose of the BC Aboriginal Justice Council ("Justice Council") will be to challenge approaches that contribute to the growing overrepresentation of Aboriginal children and youth in care of government, and Aboriginal men and women who are incarcerated, and also to productively engage with the government to advance effective strategies that can achieve better outcomes for our people in the justice system. The TOR provides for the appointment of seven individuals, one from the NCCABC, one appointed by each FNLC organization, and three to be jointly appointed by the NCCABC and FNLC. Applications for the jointly appointed positions have been reviewed and successful applicants will be informed soon. The BCAFN will designate its appointment to the council at the upcoming BCAFN AGM on June 24-25, 2015.

PART TWO: RELATED ACTIVITIES

AFN 2014 Special Chiefs' Assembly and Election of AFN National Chief Perry Bellegarde

On December 9-11, 2014, the AFN held its Special Chiefs' Assembly and the election of the National Chief. The Assembly saw nearly 2,000 First Nations leaders, Elders, technicians, community members and observers gather in Winnipeg. As always, BC First Nations were well represented. It was incredibly uplifting to see our leaders present and engaging in both the debates and events leading up to the election of AFN National Chief, and also on the other important business that can sadly be given short service when an election is underway.

On the second day of the Assembly, Regional Chief of the Federation of Saskatchewan Indian Nations, Perry Bellegarde was elected AFN National Chief. National Chief Bellegarde will serve a three and a half year term as mandated by AFN resolution 02-1204.

The Assembly saw 17 resolutions on a number of action areas passed by the Chiefs in Assembly, including areas such as First Nations education funding, missing and murdered indigenous women and girls, the Indian Residential Schools Personal Education Credit Program, the *Specific Claims Tribunal Act*, housing, natural resources, and support for the Tsilhqot'in. The leadership demonstrated by our BC First Nations nationally was very prominent over the course of the three days and evident in the deliberations on nearly all of these critical issues. Final copies of all resolutions are available online at www.afn.ca.

Gathering Our Voices (GOV): Aboriginal Youth Conference

On March 17-20, 2015 Gathering our Voices (GOV) Aboriginal Youth Conference took place in Prince George, BC and brought together nearly 1,600 youth delegates. The purpose of GOV is to "unite youth in learning, healing, and sharing and to provide tangible tools, resources, and knowledge that the youth can bring back to their communities". This year, BCAFN Male and Female Youth Representatives, Hjalmer Wenstob and Kalila George-Wilson, attended GOV with a delegation of four other youth participants sponsored by the BCAFN. Hjalmer was able to host a carving workshop throughout the conference whereby youth delegates were given the opportunity to carve throughout the week and present the finished product to the host community. From what we are told, this was an incredibly uplifting and positive experience for the BCAFN Youth Reps and they encourage all First Nations communities to consider sending youth delegates to GOV next year in Victoria, BC.

PART THREE: BC ASSEMBLY OF FIRST NATIONS' OPERATIONS

Transition of Regional Chief Jody Wilson-Raybould

As reported in the last BCAFN quarterly report in November 2014, the BCAFN is following a "transition plan" that was endorsed through Resolution 1/2014, *Transition of Regional Chief Jody Wilson-Raybould* passed at the BCAFN AGM on September 9, 2014. This plan was enacted to address the question of Jody being both the political spokesperson of the BCAFN and a candidate in the upcoming federal election. Part of this transition plan included moving the election for Regional Chief from the fall of 2015 to June 2015. Accordingly, the BCAFN Annual General Meeting will take place on June 24-25, 2015 at the Sheraton Wall Centre Hotel in Vancouver, with the election for Regional Chief taking place on Day 2 – June 25, 2015. Along with the election for Regional Chief, the BCAFN will be holding elections for Directors on the BCAFN Board of Directors and a BCAFN Women's Council Representative.

Further, and as part of the transition plan, at a meeting of the BCAFN Board of Directors in January, a resolution was passed appointing Chief Maureen Chapman, BCAFN Board member and Chief of Skawahlook First Nation, as Spokesperson for the BCAFN. Since that time, Chief Chapman has been attending meetings on behalf of the BCAFN and has acted as the public Spokesperson of the BCAFN. Outgoing Regional Chief Jody Wilson-Raybould has continued to act as the financial and administrative head of the organization and has continued her important governance work with respect to the second edition and additional tools associated with the BCAFN *Governance Toolkit*. Where the outgoing Regional Chief has attended public

events this has been at the express direction of the Board. The BCAFN Board of Directors met again in early April and reaffirmed their support for Chief Chapman to continue to act as Spokesperson, and for the outgoing Regional Chief to continue to act as financial and administrative lead and chairperson of the BCAFN Board until a new Regional Chief is elected on June 25, 2015.

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

Kalila George-Wilson	Tsleil-Waututh Nation	femaleyouth@bcafn.ca
Hjalmer Wenstob	Tla-o-qui-aht First Nation	maleyouth@bcafn.ca

BCAFN Board of Directors

Chief Maureen Chapman	Skawahlook First Nation
Chief Liz Logan	Fort Nelson First Nation
Chief Gordon Planes	T'Sou-ke Nation
Vacant	
Vacant	

BCAFN Staff

Courtney Daws	Director of Operations	(Currently on Maternity Leave)
Alyssa Melnyk	A/Director of Operations	alyssa.melnyk@bcafn.ca
Whitney Morrison	Policy Analyst	whitney.morrison@bcafn.ca
Teyem Thomas	Administrative Assistant	reception@bcafn.ca executive.assistant@bcafn.ca

Information Sharing/Webpage

The BCAFN website continues to host the "BCAFN Governance Toolkit" where *Part 1 - The Governance Report* (now the second Edition), *Part 2 – The Governance Self-Assessment, and Part 3 - A Guide to Community Engagement*, are accessible 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

June 24-25, 2015

BCAFN 12th Annual General Meeting and Election

Sheraton Wall Centre - 1088 Burrard Street
Vancouver, BC

For more information see www.bcafn.ca

July 7-9, 2015

AFN 36th Annual General Assembly

Hotel Bonaventure Montréal and the Fairmont Queen Elizabeth Hotel
Montréal, QC

For more information see www.afn.ca

September 8-10, 2015

BC Cabinet – First Nations Leaders Gathering

Vancouver, BC
For more information see www.bcafn.ca

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