



ASSEMBLY OF FIRST NATIONS
2018 SPECIAL CHIEFS ASSEMBLY – GATINEAU, QC
FINAL RESOLUTIONS

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TITLE:	First Nations Led Process to Develop New Federal Safe Drinking Water Legislation
SUBJECT:	Drinking Water
MOVED BY:	Chief Dan George, Burns Lake Indian Band/Ts'il Kaz Koh, BC
SECONDED BY:	Chief Linda Debassige, M'Chigeeng First Nation, ON
DECISION:	Carried; 4 Objections

WHEREAS:

A. The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:

- i. Article 4: Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.
- ii. Article 18: Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.
- iii. Article 19: States shall consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting or implementing legislative or administrative measures that may affect them;
- iv. Article 25: Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

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- v. Article 32 (2): States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.
 - vi. Article 38: States, in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.
- B. The *Safe Drinking Water for First Nations Act* (SDWFNA) came into force on November 1, 2013. The Act purports to enable the government to develop enforceable federal regulations to ensure access to safe, clean and reliable drinking water, the effective treatment of wastewater, and the protection of sources of drinking water on First Nations lands.
 - C. The SDWFNA provisions effectively remove the moral and legal responsibilities of the Government of Canada concerning safe drinking water for First Nations and gives the Crown sweeping liability protection from injury and death associated with unsafe drinking water in First Nations.
 - D. The SDWFNA fails to address the continuing financial resource gap for First Nations while granting sweeping enforcement, legislative and judicial powers as well as the ability to confer those powers to any person or body including private corporations.
 - E. At the 2015 Assembly of First Nations (AFN) Annual General Assembly, Justin Trudeau, as the Liberal Party Leader, indicated that the SDWFNA was an example of “the Government dictating terms rather than working in partnership to support First Nations governance.”
 - F. Justin Trudeau further promised, at the AFN Special Chiefs Assembly on December 8, 2015, to conduct a full review of legislation imposed on First Nations, and indicated that any legislation that was in conflict with rights, inconsistent with the principles of good governance, or made no public policy sense would be repealed.
 - G. Despite Resolution 76/2015, *Safe Drinking Water for First Nations*, passed by the Chiefs-in-Assembly, calling for the repeal of the SDWFNA, the Government of Canada, under Prime Minister Trudeau, has failed to repeal the Act.
 - H. Resolution 26/2017, *Safe Drinking Water for First Nations Act*, further called for the repeal of the SDWFNA and called for the federal government to work directly with First Nations in developing next steps to deliver safe drinking water for First Nations.
 - I. The Government of Canada responded positively to Resolution 26/2017, and agreed that the AFN should assist in First Nations leading the process of conceptualizing, elaborating, designing and implementing a new engagement process for safe drinking water legislation.

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- J. Subsequently, Resolution 88/2017, *First Nations led Engagement Process for Safe Drinking Water Legislation*, called for First Nations to take the lead in determining and developing priorities and strategies for safe drinking water legislation, including the co-development of a draft framework for new legislation and a framework for a First Nations Water Commission, all of which must include multi-year funding to support First Nations engagement sessions.
- K. First Nations continue to face urgent drinking water safety issues. As of April 1, 2018, there were no fewer than 78 Long Term Drinking Water Advisories (DWAs) in First Nations south of the 60th parallel - excluding the Saskatoon Tribal Council and systems with five connections or less. The AFN, in keeping with the direction of the Chiefs-in-Assembly contained in Resolution 76/2015 and Resolution 88/2017, has prepared a concept paper that outlines a proposed First Nations led co-development process to develop a new Federal Bill on Safe Drinking Water for First Nations.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Direct the Assembly of First Nations (AFN) to immediately communicate to the federal government that, in keeping with the Government's commitments to reconciliation with First Nations, a joint legislative co-development process and mandate will proceed in full partnership with First Nations, including the development of a Joint Working Group on Safe Drinking Water for First Nations.
2. Direct the AFN to immediately appoint a Chief's Committee on First Nations Safe Drinking Water Legislation that will advise and support the development of a Terms of Reference for the creation of the Joint Working Group on Safe Drinking Water for First Nations.
3. Direct the AFN to produce a draft framework for safe drinking water legislation for First Nations, aligned with the phased approach recommended in the concept paper, for consideration at the AFN Annual General Assembly in July 2018.
4. Direct the AFN and the Chief's Committee on First Nations Safe Drinking Water Legislation to develop a draft framework for the creation of the First Nations Water Commission.
5. Direct the AFN to immediately develop and convey a funding proposal to the federal government that will ensure that the Chief's Committee on First Nations Safe Drinking Water Legislation and the Joint Working Group on Safe Drinking Water for First Nations have the resources required to participate in this joint legislative co-development process in full partnership with First Nations and the federal government.
6. Direct the AFN to ensure the draft framework for safe drinking water legislation for First Nations affirms First Nations inherent water laws, standards, guidelines and processes.

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TITLE:	Federal Recognition of First Nations Jurisdiction over Recreational and Medicinal Cannabis
SUBJECT:	Bill C-45; Cannabis; Economic Development
MOVED BY:	Grand Chief Arlen Dumas, Proxy, for Peguis First Nation. MB
SECONDED BY:	Chief Elaine Johnston, Serpent River First Nation, ON
DECISION:	Carried; 1 Objection

WHEREAS:

- A.** The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
- i.** Article 21: Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the area of education, employment vocational training and retraining, housing, sanitation, health and social security.
- B.** First Nations have inherent jurisdiction over economic development initiatives, both federally and provincially, and possess the authority to manage production, licensing and distribution of legalized cannabis.
- C.** In April 2017, the federal government introduced Bill C-45, *An Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts* that, if passed, starting in July 2018, would legalize and regulate recreational cannabis in Canada and would create rules for producing, using and selling cannabis across Canada.
- D.** As it currently stands, Bill C-45 makes no room for the inclusion of First Nations governments within the proposed Act.
- E.** The federal and provincial governments must recognize and respect First Nations sovereignty and jurisdiction over their reserves and traditional territories.

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- F. In December 2017, the federal government reached a deal with the provinces to divide the excise duty collected on the sale of cannabis, a 75-25 split in favour of the provinces, owing to the costs they will incur with legal cannabis.
- G. The federal government has committed to a new First Nations fiscal relationship based on First Nations fiscal powers to implement First Nations jurisdiction in areas such as cannabis regulation. However, the lack of First Nations inclusion in the cannabis tax framework is a missed opportunity for the federal government to demonstrate its commitment to a nation-to-nation relationship that incorporates First Nations governments into the federation.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Direct the Assembly of First Nations (AFN) to inform Canada that First Nations must be consulted by the federal and provincial governments to ensure their full involvement in the design of licensing, production, distribution, and sale of legalized cannabis, including revenue sharing.
2. Call upon Canada to amend Bill C-45 to recognize that First Nations jurisdiction supersedes provincial legislation and regulation as it pertains to cannabis licensing, production, distribution and sale of legalized cannabis that incorporates community safety and well-being, particularly for children and youth.

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TITLE: Federal Justice Legislation Amendments, Call for United Nations Special Rapporteur Investigation and Royal Commission

SUBJECT: Criminal Justice System, Bill C-75

MOVED BY: Chief Reginald Bellerose, Muskowekwan First Nation, SK

SECONDED BY: Chief Billy Joe Laboucan, Lubicon Lake Band, AB

DECISION: Carried by Consensus

WHEREAS:

- A.** The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
- i.** Article 15 (2): States shall take effective measures, in consultation and cooperation with the Indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among Indigenous peoples and all other segments of society.
 - ii.** Article 22 (2): States shall take measures, in conjunction with Indigenous peoples, to ensure that Indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.
- B.** First Nations continue to struggle with the hardships of discrimination and racism in all aspects of the Canadian criminal justice system.
- C.** Colten “Coco” Boushie, a young Indigenous man, was killed by a non-Indigenous farmer named Gerald Stanley in rural Saskatchewan on August 9, 2016. Gerald Stanley was acquitted by an all-white jury on February 9, 2018. The Government of Saskatchewan refused to appeal the decision.

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- D. The police investigation into Colten Boushie's killing, the trial, the verdict, and the aftermath serves as one example among many of racism, discrimination, systemic injustice and inadequate support faced by First Nations peoples in the criminal justice system in Canada. The homicides of Colten Boushie and Cindy Gladue revealed the biases that plague the criminal justice system from inadequate investigations by police, inequality within juries and the disregard of First Nations knowledge in decision-making processes.
- E. The Canadian criminal justice system has failed Colten, his family, his community and First Nations people across the country by obstructing the exercise of human and Indigenous rights in contravention of Canada's obligations under Treaties and the UN Declaration.
- F. The federal government's recent response to this case with Bill C-75, *An Act to amend the Criminal Code, the Youth Criminal Justice Act and other Acts and to make consequential amendments to other Acts* expresses minimal solutions to the systemic problems facing First Nations peoples in the criminal justice system.
- G. Police racism and bias towards First Nations people continues to be evident in policing across Canada. For example, inquiries into the Thunder Bay Police Services exposed inadequate investigations and discrimination by police officers towards First Nations peoples.
- H. Canada's designation of First Nations police services as a "non-essential" service perpetuates the inequality First Nations peoples face in accessing adequate support under the criminal justice system.
- I. The Government of Canada must establish a Royal Commission on the Elimination of Racism in the justice system with the authority to compel witnesses involved in the miscarriage of justice.
- J. The United Nations Special Rapporteur on the Rights of Indigenous Peoples conducts investigations and reports on the human rights situation in specific countries, addresses cases of alleged violations of the rights of Indigenous peoples through communications with governments and others, promotes good practices to implement international standards concerning the rights of Indigenous peoples and conducts thematic studies on topics of special importance to the promotion and protection of the rights of Indigenous peoples.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Direct the Assembly of First Nations (AFN) to call on the federal government to meaningfully consult with First Nations to restore First Nations justice systems, uphold First Nations individual human rights, and ensure equitable treatment of First Nations in the proposed reforms to Canada's criminal laws as contained in: Bill C-75, *An Act to amend the Criminal Code, the Youth Criminal Justice Act and other Acts and to make consequential amendments to other Acts*; Bill C-28, *An Act to amend the Criminal Code* (victim surcharge); Bill C-38, *An Act to amend the Criminal Code* (exploitation and trafficking in persons); and, Bill C-39, *An Act to amend the Criminal Code* (unconstitutional provisions) and to make

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consequential amendments to other Acts with reference to previous inquiries in other provinces into unresolved homicides due to inadequate investigations by police services, such as the RCMP.

2. Call upon the Government of Canada to invite the United Nations Special Rapporteur on the Rights of Indigenous peoples, Victoria Tauli-Corpuz, and the Special Rapporteur on Racism to conduct an investigation on the Canadian justice system's treatment and on contemporary forms of racism against Indigenous People in Canada.
3. Request that the mandate of the United Nations Special Rapporteur on the Rights of Indigenous Peoples include the conduct of lawyers, Crown Attorneys, probation officers, social workers, juries, police officers and the conduct and sentencing practices of judges within all aspects of the criminal justice system.
4. Call upon the Government of Canada to establish a Royal Commission on the Elimination of Racism in the Canadian justice system with the authority to compel witnesses involved in the miscarriage of justice.

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TITLE: First Nations Role in Changes to the Fisheries Act

SUBJECT: Bill C-68; Fisheries

MOVED BY: Chief Dalton Silver, Sumas First Nation, BC

SECONDED BY: Chief Scott McLeod, Nipissing First Nation, ON

DECISION: Carried by Consensus

WHEREAS:

- A. The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
- i. Article 18: Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.
 - ii. Article 19: States shall consult and cooperate in good faith with indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.
 - iii. Article 25: Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.
 - iv. Article 38: States, in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

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- B. The Assembly of First Nations (AFN) has passed three resolutions directly related to the current legislative review of the *Fisheries Act*: Resolution 21/2017, *Respecting Inherent Rights-Based Fisheries in Parallel with the Review of Canada's Fisheries Act*; Resolution 35/2017, *Clarify the Mandate and Scope of the Ministerial Law and Policy Working Group*; and Resolution 74/2017, *Fisheries Legislative Amendments and the Ten Principles Respecting the Government of Canada's Relationship with Indigenous Peoples*.
- C. The House of Commons Standing Committee on Fisheries and Oceans (SCOFO) has begun its study of Bill C-68: *An Act to Amend the Fisheries Act and other Acts in consequence*.
- D. Since Bill C-68 introduces changes to the *Fisheries Act* that will directly impact First Nations rights, the AFN submission to the SCOFO Committee intends to address this and the dire need to hold the Government of Canada accountable in addressing the legislative impacts of Bill-68 and any accompanying regulation and policy development for First Nations.
- E. The regulation and policy developments that will follow the legislative amendments to the *Fisheries Act* must be done in collaboration and in good faith with First Nations from the outset, in order to address and prevent any infringements to s. 35 rights as outlined and protected by the *Constitution Act*.
- F. There have been numerous commitments by the current government to engage with First Nations in the development of the *Fisheries Act* regulations and policies, and it is imperative that these commitments be fixed into core funding agreements to work with First Nations nationally, regionally, and directly with First Nations as rights holders.
- G. Bill C-68 provisions for "recognizing social, economic and cultural factors, as well as the preservation or promotion of the independence of licence holders in commercial inshore fisheries" are meant to be taken into consideration in decisions. These are meant to provide clear regulatory authorities to support independent inshore licence holders.
- H. The regulation and policy developments must consider the impacts on First Nations fisheries workers, including the impacts of fisheries closures and their lack of eligibility for Employment Insurance benefits in comparison to non-Indigenous fisheries workers.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Call on the Assembly of First Nations (AFN) to urge the Government of Canada to properly fund the work with First Nations as it relates to regulation and policy development with respect to legislative amendments to the *Fisheries Act*.
2. Direct the AFN to engage with the Department of Fisheries and Oceans (DFO) to release information to First Nations in a timely manner as it pertains to plans for regulations and policies that may affect or infringe on First Nations rights and fisheries to facilitate and ensure proper engagement with First Nations.

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3. Call on the AFN to continue its work with the DFO, and any other related federal government departments as needed, to address issues with respect to: upholding First Nations rights, in particular, Canada's legislation must recognize First Nations' inherent and everlasting responsibilities to their traditional territories, and to hold the Government of Canada accountable to its work concerning the rights and recognition framework; the law and policy review; the Ten Principles Respecting the Government of Canada's Relationship with Indigenous Peoples; and the full and unqualified implementation of the *United Nations Declaration on the Rights of Indigenous Peoples* as it relates to the *Fisheries Act* and other legislation, regulations, and policy.
4. Call on the AFN to continue to advocate that any legislative, policy, and program reforms to the *Fisheries Act* must include equitable employment insurance benefits for First Nations fishermen.

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TITLE: First Nations Oceans Working Group and the Oceans Act and Marine Protected Areas

SUBJECT: Bill C-55; Fisheries

MOVED BY: Chief Dalton Silver, Sumas First Nation, BC

SECONDED BY: Chief Scott McLeod, Nipissing First Nation, ON

DECISION: Carried by Consensus

WHEREAS:

- A. The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
- i. Article 18: Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.
 - ii. Article 19: States shall consult and cooperate in good faith with indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.
 - iii. Article 25: Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.
 - iv. Article 38: States, in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

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- B.** The Assembly of First Nations (AFN) has passed Resolution 34/2017, *First Nation Engagement and Consultation on Bill C-55 Oceans Act and Marine Protected Areas*.
- C.** The First Nations Oceans Working Group has held its first meeting with the Department of Fisheries and Oceans, Oceans Management Program to initiate the joint working group led by First Nations as described in Resolution 34/2017.
- D.** The Prime Minister's mandate letters to the Minister of Fisheries, Oceans and the Canadian Coast Guard directs the Minister to "... increase the proportion of Canada's marine and coastal areas that are protected to 5% by 2017 and to 10% by 2020." The direction provided to the Minister included the work with "provinces, territories, Indigenous Peoples, and other stakeholders to better co-manage our three oceans."
- E.** Since Bill C-55 amendments have been tabled, there have been concerns raised by First Nations in how the work related to Marine Protected Areas has been handled in the absence of First Nations input and participation, and the overall lack of consultation and engagement by the federal government.
- F.** First Nations have an inherent right to govern and manage oceans resources related to fisheries, energy, protection, monitoring, transportation, economics, and transboundary issues including international laws of the sea.
- G.** First Nations inherent jurisdiction, First Nations-led marine plans, relevant research and studies have not been properly recognized and integrated into the Marine Protected Areas Network equal decision making, and the recognition and support of Indigenous Protected and Conservation Areas.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

- 1.** Direct the Assembly of First Nations (AFN) National Fisheries Committee to oversee the work of the First Nations Oceans Working Group and address the partnership between First Nations and the Government of Canada in relation to the development of the Marine Protected Areas (MPA) network.
- 2.** Direct the AFN to call on the Department of Fisheries and Oceans to identify how they plan to implement an engagement strategy that is consistent with other tools and strategies with First Nations concerning the regulation and policy development as a result of changes to the *Oceans Act*, including the MPA network.
- 3.** Mandate the AFN National Fisheries Committee and the First Nations Oceans Working Group to inform the Canadian Council of Fisheries and Aquaculture Ministers (CCFAM), specifically the Oceans Task Group, of the issues related to the changes to Bill C-55, the *Canada Petroleum Resources Act*, and related regulations and policies that First Nations must be fully engaged in and co-develop where the rights of First Nations may be impacted or infringed upon. In particular, Canada's legislation must recognize First Nations' inherent and everlasting responsibilities to their traditional territories.

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TITLE: Engaging First Nations on Marine Vessels and Salvage Operations

SUBJECT: Bill C-64; Fisheries

MOVED BY: Chief Dalton Silver, Sumas First Nation, BC

SECONDED BY: Chief Scott McLeod, Nipissing First Nation, ON

DECISION: Carried by Consensus

WHEREAS:

- A. The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
- i. Article 18: Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.
 - ii. Article 19: States shall consult and cooperate in good faith with indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.
 - iii. Article 25: Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.
 - iv. Article 37: Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their

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- successors and to have States honour and respect such treaties, agreements and other constructive arrangements.
- v. Article 37 (2): Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and other constructive arrangements.
 - vi. Article 38: States, in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.
- B. The House of Commons Standing Committee on Transport, Infrastructure and Communities has begun its study of Bill C-64, *An Act respecting wrecks, abandoned, dilapidated or hazardous vessels and salvage operations*.
 - C. Bill C-64 is an attempt at closing an important gap to enhance vessel owner responsibility and liability and strengthen federal leadership in protecting and restoring Canada's marine ecosystems and health/sustainability of our coasts and shorelines.
 - D. Bill C-64 is meant to meet Canada's commitment under the Nairobi Convention, an international instrument for governing vessel owner liability with respect to wrecks caused by maritime casualties.
 - E. Salvage operations can serve as part of rewards for First Nations who rescue under the Peace and Friendship Treaty of 1752 between the Crown and the Mi'kmaq people which has not been considered in the original drafting of this legislation.
 - F. First Nations have an inherent right to govern and manage ocean resources related to fisheries, energy, protection, monitoring, transportation, economics, and transboundary issues including international laws of the sea.
 - G. The Pacific Coast First Nations have experienced many issues with abandoned and other vessels such as the Nathan E. Stewart and the Vicky Lyne II that have become derelict and are spilling hazardous materials, such as oil, diesel, or gas into the ocean along the coast of British Columbia which negatively impacts First Nations fisheries.
 - H. The Prime Minister announced the Oceans Protection Plan in November 2016, stating that it "includes a comprehensive package of measures that address abandoned, derelict and wrecked vessels and makes owners responsible and liable for clean-up costs."

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Call on the Assembly of First Nations (AFN) to continue to advocate that any legislative, policy, and program reforms related to Bill C-64, *An Act respecting wrecks, abandoned, dilapidated or hazardous vessels and salvage operations*, must recognize First Nations' inherent and everlasting responsibilities to their traditional territories.

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2. Direct the AFN to call on the federal government to provide First Nations with long-term capacity funding that goes beyond cursory Indigenous participant funding and recognize the joint nature of the responsibilities that the federal government shares with First Nations in protecting all coasts in Canada and First Nations fisheries.
3. Direct the AFN to call on the federal government to recognize and respect First Nations' jurisdiction over their traditional marine areas and to engage them as equal partners in all future endeavors in this marine coast protection.
4. Direct the AFN to work with Transport Canada and the Department of Fisheries, Oceans, and the Canadian Coast Guard, in securing core and capacity funding for First Nations and regional level work associated with the Oceans Protection Plan as it relates to First Nations.

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TITLE: Addressing First Nations Rights, Title, and Jurisdiction in Bill C-69: Impact Assessment Act, Canadian Energy Regulator Act, and the Navigation Protection Act

SUBJECT: Bill C-69; Environment

MOVED BY: Bonnie Leonard, Proxy, Skeetchestn Indian Band, BC

SECONDED BY: Chief Byron Louis, Okanagan Indian Band, BC

DECISION: Carried by Consensus

WHEREAS:

A. The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:

- i. Article 25: Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters, and coastal seas and other resources and to uphold their responsibilities.
- ii. Article 32 (2): States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.
- iii. Article 32 (3): States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measure shall be taken to mitigate adverse environmental, economic, social, cultural, or spiritual impact.

B. The Assembly of First Nations (AFN) has passed seven resolutions concerning this process: Resolution 73/2017, *Environmental and Regulatory Reviews – Phase 3*; Resolution 20/2017,

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Respecting Inherent Jurisdiction over Waters Parallel to the Review of Canada's Navigation Protection Act; Resolution 19/2017, Resetting the Role of First Nations in Environmental and Regulatory Review; Resolution 86/2016, Meaningful Consultation and Engagement with First Nations in the Environment and Regulatory Review; Resolution 64/2016, Support for Stk'emlupsemc te Secwepemc Nation Project Assessment Process; Resolution 12/2016, Moving Beyond Federal Legislation to Establish a Nation-to-Nation Relationship; and Resolution 35/2016, First Nations' inclusion in the review of Environmental and Regulatory processes.

- C. Prime Minister Justin Trudeau has publicly committed “to a renewed nation-to-nation relationship with First Nations (...) one that is based on recognition of rights, respect, cooperation and partnership” and to “conduct a full review of the legislation unilaterally imposed on Indigenous peoples by the previous government.”
- D. Instead of engaging First Nations in the review of legislation unilaterally imposed on Indigenous Peoples by the previous government, on June 20, 2016, the Government of Canada announced a broad public review of various environmental and regulatory processes that includes:
 - i. reviewing federal environmental assessment processes;
 - ii. modernizing the National Energy Board; and
 - iii. restoring lost protections and introducing modern safeguards to the *Fisheries Act* and the *Navigation Protection Act*.
- E. The modernization of the National Energy Board (NEB) and review of the Canadian Environmental Assessment Act (CEAA 2012) went through expert panel processes, and the Fisheries Act and Navigation Protection Act went through Standing Committee processes.
- F. Despite calls for full inclusion of First Nations in drafting processes, on June 29, 2017, the Government of Canada unilaterally released a discussion paper pertaining to all four Environmental and Regulatory Reviews with a 60 day window for comment, and some opportunities for additional funding for Indigenous Nations.
- G. It remains unclear whether the Minister of Fisheries and Oceans and the Minister of Transport will use the Ministerial Working Group set out to ensure the Crown is meeting its constitutional obligations with respect to Aboriginal and Treaty Rights.
- H. First Nations cannot only rely on “common law” or the *Navigation Protection Act* for the protection of our waterways.
- I. On February 8, 2018, the Minister of Environment and Climate Change introduced Bill C-69: *An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts*.
- J. Canada is willing to engage in a process of reviewing policies, regulations and guidelines relating to Bill C-69. This process is expected to take between twelve and eighteen months.

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- K.** Canada has released consultative papers for comment until June 1, 2018, on two regulations pertaining to the *Impact Assessment Act*: Regulations Designating Physical Activities (Project List); and Information Requirements and Time Management Regulations.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

- 1.** Call upon the Assembly of First Nations (AFN) to advocate that Bill C-69 be amended to include, among other things:
 - a.** protections of First Nations inherent and constitutionally protected rights;
 - b.** enabling joint decision-making with First Nations governing authority within the Act;
 - c.** reducing excessive Ministerial discretion by increasing transparency and stronger requirements to protect s.35 rights;
 - d.** strengthening the protection of Indigenous knowledge systems and ecosystems, which are the repositories of ecological knowledge and required for the transference of knowledge to future generations; and
 - e.** including direct reference to Canada's commitments to the United Nations Agenda 2030 Sustainable Development Goals, the United Nations Declaration on the Rights of Indigenous Peoples, and the Convention on Biological Diversity.
- 2.** Reaffirm their position that the current federal legislative process must not be construed as meaningful "consultation", does not meet the standard of free, prior and informed consent, and that additional time must be afforded to consult directly with rights holders in a manner that is respectful of their unique protocols, and processes.
- 3.** Direct the AFN to continue supporting and coordinating, where possible, the interventions and participation of First Nations, regional organizations, and provincial/territorial organizations in the co-development process, including creating regional-specific processes to address regions with specific concerns including support provisions as part of a nation-to-nation relationship.
- 4.** Call on all responsible federal Ministers to provide adequate funding directly to individual First Nations for their full and effective participation in the regulatory and policy development of Bill C-69.
- 5.** Call on the AFN to continue conducting regional information-sessions to support First Nations, regional organizations, and provincial/territorial organizations in the process.

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TITLE: Implementing Canada's Recognition and Implementation of Indigenous Rights Framework and clarifying the role of the AFN

SUBJECT: Legislation

MOVED BY: Chief Mike McKenzie, Innu Takuaikan Uashat mak Mani-Utenam, QC

SECONDED BY: Chief Jackie Thomas, Saik'uz First Nation, BC

DECISION: Carried; 7 Objections; 4 Abstentions

WHEREAS:

- A. Since time immemorial the Indigenous Peoples of Turtle Island, as original sovereign nations, exercised their jurisdiction and authority over their lands, environments, resources and people with their inherent governmental authorities.
- B. Indigenous Peoples and nations have never relinquished their jurisdictions, powers, authorities, identities, rights and Treaty rights through conquest, discovery, *terra nullius*, domination, force or acquiescence.
- C. As original sovereign nations our ancestors in the past and into modern times, practiced their Treaty making rights to enter into Treaties, and other constructive agreements, among themselves and with the Crown.
- D. As a result of Indigenous Peoples' nationhood and inextricable connection to the land, Indigenous nations possess a permanent sovereignty, while Canada occupies and enjoys a lesser established sovereignty.
- E. Treaty First Nations possess and continue to maintain valid, legally enforceable Treaty and Treaty rights under international law.

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- F. Treaty First Nations are the original parties to Treaties, and Canada has successor state status as described in the United Nations' Study on Treaties, Agreements and Other Constructive Arrangements between States and Indigenous Populations released and adopted on July 20, 1999.
- G. In accordance with international law, Canada cannot define, interpret, diminish or justify its failure to perform a Treaty or its legal obligations under Treaty.
- H. Canada's engagement on the Recognition and Implementation of Indigenous Rights Framework (the Framework) is an internal process specific to the Government of Canada to reform its laws and policies.
- I. Treaties embody the right to free, prior, and informed consent and the right to participate in decision-making at all levels and in all matters affecting and impacting Indigenous People.
- J. The United Nations Declaration on the Rights of Indigenous Peoples (the UN Declaration) states:
 - i. Article 3: Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
 - ii. Article 4: Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.
 - iii. Article 5: Indigenous Peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.
 - iv. Article 18: Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.
 - v. Article 19: States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.
 - vi. Article 26 (1): Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
 - vii. Article 37 (1): Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with

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- States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.
- viii. Article 37 (2): Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and other constructive arrangements.
- ix. Article 38: States, in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.
- K. The Truth and Reconciliation Commission of Canada Calls to Action states:
- i. Calls to Action (45): We call upon the Government of Canada, on behalf of all Canadians, to jointly develop with Aboriginal peoples a Royal Proclamation of Reconciliation to be issued by the Crown. The proclamation would build on the Royal Proclamation of 1763 and the Treaty of Niagara of 1764, and reaffirm the nation-to-nation relationship between Aboriginal peoples and the Crown. The proclamation would include, but not be limited to, the following commitments:
- i. Repudiate concepts used to justify European sovereignty over Indigenous lands and peoples such as the Doctrine of Discovery and *terra nullius*.
- ii. Adopt and implement the *United Nations Declaration on the Rights of Indigenous Peoples* as the framework for reconciliation.
- iii. Renew or establish Treaty relationships based on principles of mutual recognition, mutual respect, and shared responsibility for maintaining those relationships into the future.
- iv. Reconcile Aboriginal and Crown constitutional and legal orders to ensure that Aboriginal peoples are full partners in Confederation, including the recognition and integration of Indigenous laws and legal traditions in negotiation and implementation processes involving Treaties, land claims, and other constructive agreements.
- L. On May 10, 2016, at the opening of the 15th session of the United Nations Permanent Forum on Indigenous Issues, Minister Carolyn Bennett announced, on behalf of Canada, that Canada is now a full supporter of the UN Declaration without qualification. Subsequently, on February 14, 2018, the Government of Canada reaffirmed its full support for the UN Declaration, without qualification, and committed to its full implementation, including government support for Bill C-262, *An Act to ensure that the laws of Canada are in harmony with the United Nations Declaration on the Rights of Indigenous Peoples*.
- M. In September 2017, before the United Nations General Assembly, Prime Minister Justin Trudeau acknowledged that the UN Declaration is not merely “aspirational”.

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- N. Also, in his February 14, 2018, speech to the House of Commons, Prime Minister Justin Trudeau announced that the Government of Canada is launching a national engagement strategy to develop a Recognition and Implementation of Indigenous Rights Framework (the Framework). Specifically, Prime Minister Trudeau stated:
- “...that the government will develop, in full partnership with First Nations, Inuit, and Métis people, a new recognition and implementation of Indigenous rights framework that will include new ways to recognize and implement Indigenous rights. This will include new recognition and implementation of rights legislation. Going forward, recognition of rights will guide all government interactions with Indigenous peoples. The contents of the framework that we build together will be determined through a national engagement led by the Minister of Crown-Indigenous Relations and Northern Affairs with support from the Minister of Justice.”
- O. The current federal engagement materials regarding the Framework were launched without adequate participation and direction by First Nations rights holders. Additionally, through the inclusion of other partners and stakeholders, current engagement by the Government of Canada does not adequately respect First Nations rights holders.
- P. Feedback from early engagements indicate that First Nations rights holders have:
- i. Expressed concern about the current process lacking accountability and transparency, with the Government of Canada acting unilaterally.
 - ii. Reiterated that inherent Aboriginal and Treaty rights are constitutionally protected and guaranteed to First Nations, rather than political organizations and that it is the duty of the Crown to consult directly with rights holders in order to obtain their free, prior and informed consent when contemplating actions affecting them.
- Q. Government engagement processes with non-rights holders and organizations, such as the Assembly of First Nations (AFN), do not constitute consultation and accommodation and cannot be used to obtain free, prior and informed consent.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Declare that the Assembly of First Nations (AFN), as an advocacy body, and any regional organizations cannot negotiate any binding changes to Canada's federal laws, policies and operational practices as part of the Recognition and Implementation of Indigenous Rights Framework (the Framework).
2. Call on Canada to work with First Nations before adopting and implementing any legislative or administrative measures that may affect First Nations in order to obtain their free, prior and informed consent.

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3. Call on Canada to:
 - a. Rename the Framework to "Protection and Affirmation of Rights and Title Framework".
 - b. Ensure that all phases of its process, in regard to its Framework, are guided by the standards set out in the United Nations Declaration on the Right of Indigenous Peoples (UN Declaration), the American Declaration on the Rights of Indigenous Peoples and the United Nations Study on Treaties, Agreements and Other Constructive Arrangements between States and Indigenous Populations.
 - c. Work closely with First Nations to ensure that the engagement materials are informed, sufficient, accessible and transparent.
 - d. Provide the necessary non-repayable financial contributions directly to First Nations as the rights holders, to support their ability and capacity to lead efforts to meaningfully and directly engage the federal government on the Framework, related activities and initiatives, including federal legislation.
4. Call on Canada to honour its constitutional obligations and commitments to the full implementation and affirmation of inherent rights, Treaty Rights and title.
5. Call on Canada to completely repudiate and abandon the inherent rights policy and any related operating practices.
6. Call on the Governor General to acknowledge its role as the sole representative of the Crown and to participate in First Nations-led agendas when requested by First Nations.
7. Direct the Assembly of First Nations (AFN) to take appropriate measures to ensure that its organization, executive and administration are in compliance with the UN Declaration in its relationships with First Nations, all levels of governments and international entities.

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TITLE:	Develop First Nations-Specific Solutions for the Green House Gas Pollution Pricing Act
SUBJECT:	Bill C-74; Environment
MOVED BY:	Chief Byron Louis, Okanagan Indian Band, BC
SECONDED BY:	Chief Calvin Sanderson, Chakastapaysin Band of the Cree Nation, SK
DECISION:	Carried by Consensus

WHEREAS:

- A.** The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
- i.** Article 32 (1): Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.
 - ii.** Article 32 (2): States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.
 - iii.** Article 32 (3): States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measure shall be taken to mitigate adverse environmental, economic, social, cultural, or spiritual impact.
- B.** In the Paris Agreement, signed by Canada in April 2016, parties agreed that they should, when taking action on climate change, recognize and respect the rights of Indigenous Peoples.
- C.** The First Ministers adopted the Pan-Canadian Framework on Clean Growth and Climate Change (PCF) outlining four pillars: pricing carbon pollution; complementary mitigation actions to reduce

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emissions across all sectors; adaptation and climate resilience; clean technology, innovation, and jobs; also agreeing to recognize, respect, and safeguard the rights of Indigenous Peoples.

- D. A central pillar of the PCF is carbon pricing – requiring all Canadian jurisdictions to have a carbon pricing system in place by 2019. Those jurisdictions without a carbon pricing regime will be subject to the Federal Carbon Pricing Backstop, which will be comprised of two key elements: i) a levy on fossil fuels; and ii) an output based pricing system for facilities producing greater volumes of carbon emissions.
- E. Several provinces (such as British Columbia, Alberta, Québec, Ontario, and Manitoba) have or are expected to implement carbon pricing regimes. Several others (such as Yukon, New Brunswick, and Saskatchewan) are expected to see the Federal Backstop applied within their jurisdictions.
- F. Given that all revenue will remain in the jurisdiction of origin, there are no existing mechanisms that can ensure First Nations full and meaningful participation in the transition to a clean energy economy – including direct investment to First Nations to pursue energy security.
- G. On January 15, 2018, the federal government released the Draft Legislative Proposals to Implement the Federal Carbon Pricing System as well as the Draft Regulatory Framework for the Output-Based Pricing System for comment. Comments on the draft legislative proposals were due February 12, 2018. Due to the limited timelines and no funding to engage, First Nations were not able to participate meaningfully.
- H. On March 27, 2018, the federal government tabled Bill C-74, an *Act to implement certain provisions of the budget tabled in Parliament on February 27, 2018, and other measures* (Budget Implementation Act, 2018, No. 1) in which the *Greenhouse Gas Pollution Pricing Act* is a large component.
- I. Bill C-74 has now been referred to the Standing Committee on Finance (FINA) for study.
- J. The Government of Canada has launched the Clean Growth Hub as a mechanism to help make finding government programs to fund clean growth projects easier.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

- 1. Direct Canada to ensure that the *Greenhouse Gas Pollution Pricing Act* (Bill C-74) respects:
 - a. First Nations inherent rights, Treaties, title and jurisdiction, and recognize First Nations inherent responsibilities to their traditional territories;
 - b. the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration), including reference to the standard of free, prior, and informed consent; and
 - c. the First Nations right to self-determination, including the creation of a First Nations Carbon Pricing Regimes.

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2. Call on Canada to co-develop with First Nations the policies, regulations and guidelines for the Carbon Levy and Output-Based Pricing Framework in order to respect First Nations inherent rights, Treaties, title and jurisdiction, and recognize First Nations' inherent responsibilities to their traditional territories.
3. Reiterate the call for the Ministers of Environment and Climate Change Canada, Finance, and other departments to provide adequate financial support for First Nations to explore the implications of carbon pricing on their territories, as well as opportunities for their participation in resource-revenue sharing and in the clean energy economy.
4. Direct the Assembly of First Nations (AFN) to support First Nations, regional organizations, federal/provincial/territorial organizations and governments in the development of innovative solutions to address the unique circumstances of First Nations.

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TITLE: Resources for Engagement on Distinct First Nations Accessibility Legislation

SUBJECT: Accessibility; Disabilities

MOVED BY: Chief Byron Louis, Okanagan Indian Band, BC

SECONDED BY: Chief Randall Phillips, Oneida Nation of the Thames, ON

DECISION: Carried by Consensus

WHEREAS:

- A. The United Nations Declaration on the Rights of Indigenous Peoples (the UN Declaration) states:
- i. Article 21 (1): Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.
 - ii. Article 21 (2): States shall take the effective measure and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and person with disabilities.
- B. The Convention on the Rights of Persons with Disabilities states:
- i. Article 21 (b): Accepting and facilitating the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions.
 - ii. Article 21 (e): Recognizing and promoting the use of sign languages.
 - iii. Article 27: States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen

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- or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia.
- iv. Article 30 (4): Persons with disabilities shall be entitled, on an equal basis with others, to recognition and support of their specific cultural and linguistic identity, including sign languages and deaf culture.
- C. International treaties and human rights standards serve to support First Nations persons with disabilities and provide them with an unprecedented opportunity to develop and implement full and meaningful legislation.
- D. Recent Assembly of First Nations (AFN) resolutions have included: Resolution 98/2017, *Distinct First Nations Accessibility Legislation*; Resolution 105/2016, *Establish an Office of Disabilities Unit at the AFN and develop a Regional Advisory Disability Task Force*; Resolution 55/2016, *First Nations Federal Accessibility Legislation*; Resolution 75/2015, *Support the Economic, Social and Cultural, Spiritual, Civil and Political Rights of Indigenous Persons with Disabilities*; and Resolution 48/2014, *Support for Persons with Disabilities*.
- E. Resolution 55/2016, *First Nations Federal Accessibility Legislation*, instructs AFN to work with Employment and Social Development Canada (ESDC) to develop a First Nations specific engagement process to parallel the Minister's broader consultation process with provinces and territories in creating federal accessibility legislation that is specific and distinct to First Nations' needs.
- F. Disability Rights in Canada are protected by the *Canadian Charter of Rights and Freedoms* and the *Canadian Human Rights Act*. Section 15 of the *Canadian Charter of Rights and Freedoms* clearly articulates that every individual in Canada – regardless of race, religion, nationality or ethnic origin, colour, sex, age or physical or mental disability – is to be considered equal. This means that governments must not discriminate based on any of these grounds in its laws or programs. Further, it allows for certain laws or programs aimed at improving the situation of disadvantaged individuals or groups.
- G. The Honorable Kirsty Duncan, Minister of Science and the Minister of Sport and Persons with Disabilities, is mandated by the Prime Minister to “lead an engagement process with provinces, territories, municipalities, and others that will lead to the passage of a Canadians with Disabilities Act” (now referred to as Federal Accessibility Legislation), which the federal government plans to table by early summer 2018.
- H. ESDC has confirmed some additional funding for fiscal year 2018-2019 to support further activities, however, more funding is required to establish a Regional Advisory Task Force on Disabilities (Task Force) to help build a national framework, regionalize funding for regional capacity building; develop a policy paper to advocate for culturally safe programs and services and consider initiatives such as a centre of excellence.

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THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Direct the Assembly of First Nations (AFN) to work with Employment and Social Development Canada (ESDC) towards legislation supporting First Nations persons with disabilities, including meaningful resources for regional capacity building.
2. Direct the AFN to secure appropriate resources from the federal government for the development of a First Nations Regional Advisory Disability Task Force, and to explore initiatives, such as a Disabilities centre of excellence, to support promising practices, evidence-based resources in meeting the unique needs of First Nations persons with disabilities, service users, and their families.
3. Direct the AFN to support American Sign Language (ASL) as part of the communications theme in this legislative work, and call on ESDC to provide resources to support First Nations sign languages and include ASL as part of its future conferences and/or assemblies.

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TITLE: Federal Legislation on First Nations Child Welfare Jurisdiction

SUBJECT: Child Welfare

MOVED BY: Mary Teegee, Proxy, Takla Lake First Nation, BC

SECONDED BY: Chief Cadmus Delorme, Cowessess First Nation, SK

DECISION: Carried by Consensus

WHEREAS:

- A.** The United Nations Declaration on the Rights of Indigenous Peoples (the UN Declaration) should be the framework for improvement to child welfare law and policy in order to address the harmful legacy of residential schools, such as the forceful removal of children, the disproportionate number of First Nations children in care, and the consequences of involvement in child welfare systems, and the related loss of language and denial of culture and human rights. The UN Declaration states:
- i.** Article 2: Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.
 - ii.** Article 4: Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.
 - iii.** Article 22(2): States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.
 - iv.** Article 23: Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be

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- actively involved in developing and determining health, housing and other economic and social development programmes affecting them and, as far as possible, to administer such programmes through their own institutions.
- B.** The Truth and Reconciliation Commission of Canada (TRC) Calls to Action #1 through #5 affirm the need to address First Nations child and family services. Call to Action #4 specifically calls upon the federal government to enact Aboriginal child welfare legislation that establishes national standards for Aboriginal child apprehension and custody cases.
- C.** The Canadian Human Rights Tribunal's 2016 (CHRT 2) decision and subsequent rulings state that there are longstanding and proven inequities in the federally-funded on-reserve First Nations Child and Family Services Program. Children and families are sacred in First Nations, and the ongoing failure to address these inequities is depriving First Nations of holistic services to keep families together.
- D.** *Touchstones of Hope*, a document resulting from a 2005 gathering of Indigenous and non-Indigenous child welfare leaders, provides principles for reconciliation in child welfare, including self-determination and non-discrimination, among others. According to *Touchstones of Hope*, reconciliation in child welfare is comprised of truth telling, acknowledging, restoring, and relating. *Touchstones of Hope* acknowledges that First Nations are best suited to make decisions for the wellbeing of their children.
- E.** Section 35 of the *Constitution Act, 1982* affirms the protection of rights for First Nations and other Indigenous peoples in Canada.
- F.** Currently, child welfare services are provided for within provincial legislation and jurisdiction, while the Indian Act does not include any provisions related to child and family services. Additionally, Section 88 of the Indian Act extends provincial/territorial laws of general application to apply to First Nations within the province/territory.
- G.** First Nations have inherent and Treaty rights and authority, along with the cultural knowledge and understanding of historical trauma, to provide high quality child and family services for their citizens to reduce the number of First Nations children and families in contact with the child and family services system.
- H.** The Assembly of First Nations (AFN) have passed four resolutions directly related to child welfare reform: Resolution 01/2015, *Support for the Full Implementation of the Truth and Reconciliation Commission of Canada's Calls to Action*; Resolution 62/2016, *Full and Proper Implementation of the Historic Canadian Human Rights Tribunal Decisions in the Provision of Child Welfare Service and Jordan's Principle*; Resolution 83/2016, *National Advisory Committee on INAC's Child Welfare Reform Engagement Strategy*; and Resolution 40/2017, *Call on Canada to Comply with the 2016 Canadian Human Rights Tribunal Orders*.

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- I. The National Advisory Committee (NAC) on First Nations Child and Family Services Program Reform has been re-established following the CHRT rulings. The NAC is comprised of the AFN, First Nations Child and Family Caring Society, regional First Nations representatives, the Canadian Human Rights Commission, the AFN Elders and Youth Councils, and Indigenous Services Canada (ISC).
- J. At the emergency meeting on Indigenous Child Welfare on January 25-26, 2018, the Minister of Indigenous Services Canada announced six points of action, including supporting communities to draw down jurisdiction and explore the potential for co-developed federal child welfare legislation. First Nations called for reform at the emergency meeting, including assertion of First Nations jurisdiction over child and family services and for legislative reform.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Support the establishment of federal enabling legislation for First Nations that incorporates the International Convention on the Rights of the Child and jurisdiction over child and family well-being that respect regional approaches that provide options for regional-based components.
2. Call on Canada to orient their approach to legislation, policy, and practice reform, and their conduct to child welfare activities, on the recognition of First Nations' peoples inherent right of self-determination, meaning that each First Nation, duly-appointed representative of the rights and title holders of First Nations or Treaty First Nations, must decide how and when it will take the jurisdiction that is inherent to it, and will be supported to make those free and informed decisions without any duress or predetermination of the conditions other than its own assessment of how best to care for and establish law, policies and practices to protect and support children, youth and families. Service agencies and other entities created by organizations and charitable services providers will be mandated to engage in child welfare reform on behalf of First Nations only when they are specifically authorized to do so by First Nations rights and title holders, or Treaty First Nations peoples.
3. Direct the Assembly of First Nations (AFN) to endorse a working group comprised of representation from nations, without question, and the National Advisory Committee (NAC) on First Nations Child and Family Services Program Reform.
4. Call on Canada to ensure legislation for First Nations jurisdiction over child and family well-being is passed within the current government's mandate.
5. Call on Canada to ensure full funding for First Nations and Treaty Nations for the exercise of their child welfare authority.

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TITLE: **Meaningful consultation on Bill C-71, An Act to amend certain Acts and Regulations in relation to firearms**

SUBJECT: Legislation, Firearms

MOVED BY: Chief Peter A. Beatty, Peter Ballantyne Cree Nation, SK

SECONDED BY: Milton Tootosis, Proxy, Poundmaker Cree Nation, SK

DECISION: Carried by Consensus

WHEREAS:

- A.** The United Nations Declaration on the Rights of Indigenous Peoples (the UN Declaration) states:
- i.** Article 18: Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions without discrimination.
 - ii.** Article 19: States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.
 - iii.** Article 20: Indigenous Peoples have the right to maintain and develop their political, economic, and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and economic activity.
- B.** First Nations inherent rights to hunt, fish, trap and gather are affirmed in Aboriginal and Treaty rights and in section 35 of the *Constitution Act, 1982*.

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- C.** On March 28, 2018, the Minister of Public Safety and Emergency Preparedness, Ralph Goodale introduced Bill C-71, *An Act to amend certain Acts and Regulations in relation to firearms*, in the House of Commons.
- D.** Bill C-71 seeks to amend *The Firearms Act*, without any consultation or accommodation of First Nations Treaty rights to own firearms and ammunition.
- E.** Bill C-71 will have negative implications for First Nations firearms owners, as financial costs to purchase and own firearms and ammunition, including costs to obtain a firearms acquisition certificate, will increase.
- F.** Bill C-71 will require firearms owners to procure Authorization to Transport documents whenever a weapon is being taken anywhere other than a shooting range or club.
- G.** Bill C-71 is currently under the review of the House of Commons Standing Committee on National Safety and Security. The Assembly of First Nations (AFN) did not receive an invitation to speak on the implication of Bill C-71 at this stage.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

- 1.** Direct the Assembly of First Nations (AFN) to participate in future government discussions on Bill C-71, or related discussions on federal legislation affecting First Nations access to firearms and ammunition, through an appearance or submission to the House of Commons Standing Committee on Public Safety and National Security.
- 2.** Direct the AFN to write a letter to the Minister of Public Safety and Emergency Preparedness, Ralph Goodale, to ensure improvements to firearms legislation will increase public safety, effectively use public resources and protect First Nations gun owners' access in their exercise of Treaty rights to use firearms and ammunition.
- 3.** Call on Canada to review and reform all federal legislation, policies and operational practices that impact First Nations inherent and Treaty rights to hunt, fish, trap and gather.

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TITLE: Co-Development of Airport Safety Legislation

SUBJECT: Legislation

MOVED BY: Chief Peter A. Beatty, Peter Ballantyne Cree Nation, SK

SECONDED BY: Chief Reginald Bellerose, Muskowekwan First Nation, SK

DECISION: Carried by Consensus

WHEREAS:

- A.** The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
- i.** Article 18: Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.
 - ii.** Article 19: States shall consult and cooperate in good faith with indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.
 - iii.** Article 38: States, in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.
 - iv.** Article 39: Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.
- B.** Many First Nations in remote areas rely on aircraft to provide goods and services and to transport members.

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- C. Many of the airports that service First Nations are neglected and are in sub-standard conditions that include inadequate de-icing equipment and runways that are too short and improperly maintained.
- D. An airplane crash occurred in Fond du Lac First Nation on December 13, 2017, that resulted in loss of life. This crash was avoidable and the emergency services deployed to the crash site could have been more efficient, if they were properly equipped.
- E. Existing federal legislation and policies that govern the safety of airport infrastructure and related emergency management services do not meet the needs of isolated First Nations in relation to airports and aircraft safety.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Direct the Assembly of First Nations (AFN) to call on the Government of Canada to co-develop legislation which:
 - a. Recognizes First Nations' control over airports that service First Nations, and require that all runways servicing First Nations either meet or exceed national safety standards and provide the necessary funding to meet these standards.
 - b. Ensures that all airports servicing First Nations are sufficiently resourced to: adequately service aircrafts; guarantee aircrafts can safely arrive and depart; and ensure the required equipment be made available- including lighting, de-icing machines, and emergency response equipment.

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TITLE:	United Nations Declaration on the Rights of Indigenous Peoples- Legal Standing - Implementation
SUBJECT:	UN Declaration
MOVED BY:	Okimaw Iskwew Margaret Bear, Ochapowace First Nation, Treaty 4 Territory, SK
SECONDED BY:	Chief B. Lynn Acoose, Sakimay First Nations, Treaty 4 Territory, SK
DECISION:	Carried by Consensus

WHEREAS:

- A. The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
- i. Article 38: States, in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.
 - ii. Article 43: The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.
- B. The UN Declaration is the most advanced and comprehensive legal international instrument on Indigenous Peoples' Rights.
- C. The UN Declaration builds on existing human rights enshrined in legal international human rights Treaties and embodies global consensus on Indigenous Peoples' Rights.
- D. Chiefs-in-Assembly affirmed their support for the UN Declaration through Resolution 38/2015, *Canada's Obligation to Develop with Indigenous Peoples a National Implementation of the UN Declaration on the Rights of Indigenous Peoples*; Resolution 28/2016, *United Nations Declaration on the Rights of Indigenous Peoples 10 Year Anniversary*; and Resolution 97/2017, *Support for Bill C-262, "An Act to ensure that the laws of Canada are in harmony with the United Nations Declaration on the Rights of Indigenous Peoples."*

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- E.** The Government of Canada has identified and commenced its engagement towards a “Recognition and Implementation of Indigenous Rights Framework” and as stated in their engagement materials “is committed to renewing the relationship with First Nations, Inuit and Métis peoples based on recognition of rights, respect, cooperation and partnership.”
- F.** On February 14, 2018, the Government of Canada reaffirmed its full support for the UN Declaration, without qualification, and committed to its full implementation, including government support for Bill C-262, *An Act to ensure that the laws of Canada are in harmony with the United Nations Declaration on the Rights of Indigenous Peoples*.
- G.** Also on February 14, 2018, the Government of Canada launched a national engagement strategy to develop a Recognition and Implementation of Indigenous Rights Framework that would ensure the Government of Canada respects Indigenous rights and provides policies and mechanisms for Indigenous Peoples to exercise their rights.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

- 1.** Declare that, in order to succeed in achieving an effective and comprehensive Rights Framework, the federal government must formally and without delay, implement the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) within the context of the Canadian Constitution in co-development with First Nations across Canada.
- 2.** Reaffirm that the UN Declaration is the legal standard and, therefore, is considered to be an international Treaty equal to other existing United Nations Treaties.
- 3.** Invoke our legitimate right to self-determination as stipulated in the UN Declaration as a legally binding and non-aspirational legal standard which is, therefore, to be considered an international Treaty equal to other existing United Nations Treaties.
- 4.** Direct the Assembly of First Nations (AFN) to take appropriate measures to ensure that its organization, executive and administration be in compliance with the rights affirmed in the UN Declaration in its relationships with First Nations, all levels of governments and international entities.

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