

FIRST NATIONS LEADERSHIP COUNCIL

News Release

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NEW REPORT RECOMMENDS FIRST NATIONS IN BC TAKE IMMEDIATE CONTROL OF MINING IN THEIR TERRITORIES

(Xʷməθkʷəy̓əm (Musqueam), Sḵwx̱wú7mesh (Squamish) and səliłwətał (Tsleil-Waututh)/Vancouver, B.C.) First Nations in BC are proactively working towards re-establishing sovereignty over their territories in British Columbia, by introducing and exercising their own law-making authority to regulate and monitor mining on their own lands.

The *Indigenous Sovereignty: Implementing Consent for Mining on Indigenous Lands* is a new report prepared by the BC First Nations Energy and Mining Council (FNEMC) setting out 25 recommendations which, if implemented, would compel mining companies and prospectors to secure the approval of First Nation governments in order to obtain consent-based access to First Nations' lands. They would further be required to agree and abide by conditions set by those First Nations governments.

The report is, in part, a response to the Province's lack of progress on implementing the [Declaration of the Rights of Indigenous Peoples Act](#) (the "Declaration Act") since its enactment in 2019. The Declaration Act requires the Province, in consultation and collaboration with Indigenous peoples, to align all provincial laws with the [United Nations Declaration on the Rights of Indigenous Peoples](#) ("UN Declaration"). Indigenous people's rights of decision-making authorities about their lands, includes Free, Prior and Informed Consent for activity on their lands; these are key human rights standards in the UN Declaration, and the Declaration Act creates mechanisms for the Province (and Canada) to uphold.

However, to date, the Province has not reformed any of its mining laws to be consistent with the Declaration Act, and it continues "business as usual". First Nations continue to rely on costly legal processes to protect their rights and address non-sanctioned mining operations in their territories, contrary to the Declaration Act and the Province's commitments to First Nations. In the [latest case](#) filed in the BC Supreme Court in October 2021, the [Gitxaala Nation](#), whose territory is in northern BC, challenges the Province's "free entry" mineral claim staking regime. The Nation is challenging the registration and granting of multiple mineral claims by the Province between 2018 and 2020 on Banks Island in Gitxaala territory without the Nation's consent, consultation, or even notification.

All 25 recommendations are consistent with the legal certainty that will exist once mining laws are aligned with the Declaration Act, offering near-term practical options for First Nations to exercise sovereignty and consent in relation to mining activities. In the absence of provincial government action, the Report recommends that First Nations move ahead with the development of their own mining regimes based on their Indigenous laws and legal orders and exercise of their right of consent for all existing and future mining operations.

See attached backgrounder for more detail. The full report is available on the [FNEMC website](#).

Quotes



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“At the time of its passing, we welcomed the [Declaration of the Rights of Indigenous Peoples Act](#) and praised the provincial government for its bold leadership. We thought the recognition of the sovereignty and self-determination of Indigenous Nations was finally being actioned and that First Nations’ consent would be the basis of all prospecting and mining on our lands and we could ensure the protection of our lands and waters. But, more than two years on, no action has been taken to align provincial laws. Exploration and mining activities persist as if the Declaration Act does not exist. Once again, this forces First Nation communities to continue to rely on lengthy and costly legal processes to stop or restrict unsanctioned mining operations in our territories, threatening our sacred lands and waters.” (Grand Chief Stewart Phillip, President, Union of BC Indian Chiefs)

“Nothing is more sacred to First Nations than our relationship with the land. Many First Nations in BC are not opposed to mining. We recognize the potential for economic benefits in jobs and revenue for our own people and the province as a whole. However, we are opposed to prospecting and mining without our free, prior and informed consent. Unfortunately, this remains the current situation in BC. Enough is enough; it is time for First Nation governments to exercise their inherent jurisdiction over all mining on their respective territories. We know the federal government has over \$14-billion in environmental liabilities and asset retirement obligations related to abandoned mines in northern Canada, resulting in part from mining companies abandoning their projects, leaving a mess on the land and a huge financial burden to clean it up. These are fundamental issues that First Nations can assist with solutions: get our free, prior and informed consent and you’ll have a world class project.” (Regional Chief Terry Teegee, BC Assembly of First Nations)

“We are entering a new era that will sweep away colonial-style mining laws that do not recognize and are incompatible with our title and rights. The future of mining on First Nations lands in this province will respect First Nation rights and laws. First Nation consent means legal certainty for mining companies, better environmental stewardship, safer mines and an improved global reputation for the B.C. mining sector.”
(Lydia Hwitsum, Political Executive, First Nations Summit)

This project identifies practical tools to support First Nations decision-making to regulate mining activities on their lands. “By proposing practical approaches that Indigenous peoples can use to insert their values and voices into the existing state legal and policy framework, this project makes an important contribution to the assertion of Indigenous laws and sovereignty. I look forward to seeing these recommendations implemented by Indigenous nations throughout B.C. and by the B.C. government.”

Dr Sheryl Lightfoot, Canada Research Chair in Global Indigenous Rights and Politics, Associate Professor, First Nations and Indigenous Studies and Political Science, University of British Columbia, Member, UN Expert Mechanism on the Rights of Indigenous Peoples – quote from the preface of the report: Indigenous Sovereignty: Implementing Consent for Mining on Indigenous Lands

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The First Nations Leadership Council is comprised of the political executives of the BC Assembly of First Nations (BCAFN), First Nations Summit (FNS), and the Union of BC Indian Chiefs (UBCIC).

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