



BRITISH COLUMBIA ASSEMBLY OF FIRST NATIONS

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BCAFN ANNUAL GENERAL MEETING

Musqueam Community Centre, Xʷməθkʷəy̓əm, Vancouver, BC
September 18-20, 2019

Resolution 21(d)/2019

SUBJECT: MINERALS ON RESERVE REFORM

MOVED BY:

SECONDED BY:

DECISION:

WHEREAS:

- A. The British Columbia government asserts ownership of precious metals (primarily gold and silver) on all BC First Nations reserves. This assertion of ownership underpins reciprocal statutes enacted in 1943: Canada's The British Columbia Indian Reserves Mineral Resources Act and British Columbia's Indian Reserve Mineral Resource Act (collectively, the "1943 Mineral Acts"). The 1943 Mineral Acts codified a January 29, 1943 memorandum of agreement between the Canada and British Columbia on the administration of minerals on reserves. The 1943 Mineral Acts are a clog on exploration and mining activities on reserves, depriving First Nations of benefits who wish to exploit the value of minerals on reserve;
- B. Due to the 1943 Mineral Acts, 50% of "revenues" derived from minerals on reserve belong to British Columbia with Canada receiving the other 50%, on behalf of First Nations. The 1943 Mineral Acts were premised on Canada's Privy Council Order 208 passed in 1931 ("PCO 208") and British Columbia's Orders in Council passed in 1938 ("OIC 1036"). PCO 208 and OIC 1036 were based on the Report of the Royal Commission on Indian Affairs dated June 30, 1916

Certified copy of a resolution adopted on the 19th day of September, 2019, at the Musqueam Community Centre, Xʷməθkʷəy̓əm, Vancouver, BC

A handwritten signature in blue ink, appearing to read "Terry Teegee".

Terry Teegee, BC Regional Chief

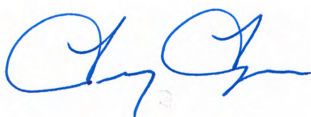
prepared under the “McKenna-McBride” agreement of September 24, 1912 between the Canada and British Columbia;

- C. In addition to the British Columbia government’s assertion of ownership of precious metals on reserves, it asserts that mining tax is not subject to sharing under the 1943 Mineral Acts as such tax is not within the definition of revenue, as negotiated between Canada and British Columbia;
- D. the *United Nations Declaration on the Rights of Indigenous Peoples*, which the government of Canada has adopted without qualification, and has, alongside the government of BC, committed to implement, affirms through Articles 18, 19, 20, 26, 27, 28, 29, 32, 36 and 39 the need for Indigenous peoples’ free, prior and informed consent on matters affecting their lands, territories and resources;
- E. In late 2018 discussions were commenced by the First Nations Energy and Mining Council with Canada and British Columbia to repeal and develop a solution on matters relating to the 1943 Mineral Acts; and
- F. the nature and scope of subsurface rights generally on reserve in British Columbia is legally uncertain, in particular subsurface rights regarding industrial minerals, petroleum and natural gas, coal, coalbed gas, geothermal resources and groundwater.

THEREFORE BE IT RESOLVED THAT:

- 1. The BCAFN Chiefs-in-Assembly fully supports the First Nations Energy and Mining Council to develop options and solutions with the governments of Canada and British Columbia to establish a new legal and policy framework consistent with the *United Nations Declaration on the Rights of Indigenous Peoples*, the Truth and Reconciliation Commission Calls to Action, the Calls for Justice from the National Inquiry on Missing and Murdered Indigenous Women and Girls, and Indigenous and Canadian laws and legal orders to:
 - 1. Repeal The British Columbia Indian Reserves Mineral Resources Act, SC 1943-44, c. 19 and Indian Reserve Mineral Resource Act, RSBC 1979, c. 192 (ratifying and confirming the Indian Reserves Minerals Resources Act, RSBC 1960, c. 187) and confirm the title, rights and interests to the subsurface of reserves are entirely vested with First Nations including ownership, administration, control and disposition of rights, and all direct and indirect benefits derived from:
 - a. Minerals and metals, precious, base or otherwise in, upon or under reserves;

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Terry Teegee, BC Regional Chief

b. Other natural resources including industrial minerals, petroleum and natural gas, coal, coalbed gas, geothermal resources, storage reservoirs, and shallow and deep groundwater in, upon or under reserves; and

2. Cancel PCO 208 and OIC 1036;

2. The BCAFN Chiefs-in-Assembly directs the BCAFN Regional Chief, working with the Union of BC Indian Chiefs and the First Nations Summit as the First Nations Leadership Council, to assist the First Nations Energy and Mining Council in reviewing any options and solutions and working together to advance with provincial and federal governments;
3. The BCAFN Chiefs-in-Assembly urges the governments of Canada and British Columbia to immediately engage with the First Nations Energy and Mining Council to establish a new legal and policy framework for minerals and other subsurface natural resources on reserve within the spirit and intent of these resolutions consistent with the *United Nations Declaration on the Rights of Indigenous Peoples*, the TRC Calls to Action, National Inquiry Calls for Justice and Indigenous and Canadian law;
4. The BCAFN Chiefs-in-Assembly directs the First Nations Energy and Mining Council to provide regular updates to the BCAFN Chiefs-in-Assembly and the BCAFN Regional Chief.

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Terry Teegee, BC Regional Chief