



BC ASSEMBLY OF FIRST NATIONS

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BCAFN 17th ANNUAL GENERAL MEETING
November 17 & 18, 2020
Online via Zoom

Resolution 16/2020

SUBJECT: LEGAL STRATEGY TO ADDRESS WILDLIFE MISMANAGEMENT

MOVED BY: CHIEF BYRON LOUIS, OKANAGAN INDIAN BAND

SECONDED BY: CHIEF LEE SPAHAN, COLDWATER INDIAN BAND

DECISION: CARRIED

WHEREAS:

- A. Indigenous Nations in BC enjoy and exercise inherent Title, Rights and jurisdiction to their respective territories;
- B. Indigenous Peoples have always relied on wildlife populations in their territories for sustenance and to maintain their connection to their culture, identity and lands;
- C. The Crown is obligated to protect and uphold the Inherent rights of Indigenous Peoples as recognized and affirmed pursuant to section 35 of the *Constitution Act, 1982*. This recognition and affirmation compels the Crown to provide to the holders of those rights the means to which the Crown has attempted to fully and conclusively discharge their fiduciary duty to justify their infringement of those rights within the framework established by the Supreme Court of Canada in *R. v. Sparrow*;
- D. The *United Nations Declaration on the Rights of Indigenous Peoples* ("UN Declaration"), which the government of Canada has adopted without qualification, and has, alongside the government of BC, committed to implement, affirms:

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Article 24: Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals.

Article 26: Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.

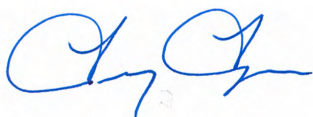
Article 29: Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources;

- E. The government of BC is required, pursuant to section 3 of the *Declaration on the Rights of Indigenous Peoples Act*, to take all measures necessary to ensure the laws of BC are consistent with the UN Declaration;
- F. The Crown has consistently failed to manage and protect wildlife populations and wildlife habitat on which Indigenous Peoples rely on to the exercise of their Inherent Rights;
- G. The Crown's failure to responsibly manage and protect wildlife populations and wildlife habitat is contrary to the honour of the Crown, the direction of the Supreme Court of Canada, the UN Declaration, and the Crown's constitutional obligations to attempt to justify any infringement of Indigenous Peoples' Inherent rights; and
- H. The Okanagan Indian Band ("OKIB"), on behalf of the *Syilx* Okanagan Nation, has identified potential legal options to address the Crown's failure to protect wildlife populations and habitat, and its failure to attempt to justify its infringements of Indigenous Peoples' Inherent rights.
- I. All First Nations in BC would benefit from a comprehensive, coordinated legal strategy to implement their rights to harvest, use and manage wildlife resources within their territories, which they have done since time immemorial, and to address the Crown's failure to justify its infringements of Indigenous Peoples' Inherent rights.

THEREFORE BE IT RESOLVED THAT:

- 1. The BCAFN Chiefs-in-Assembly fully support Okanagan Indian Band's (OKIB) efforts to identify potential legal options to address the Crown's failure to protect wildlife

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populations and habitat, and its failure and to attempt to justify its infringements of Indigenous Peoples' Inherent rights;

2. the BCAFN Chiefs-in-Assembly direct the BCAFN Regional Chief and staff to support the OKIB and other First Nations to develop a comprehensive legal and political strategy to address the Crown's failure to protect wildlife populations and habitat, and its failure to attempt to justify its infringements of Indigenous Peoples' Inherent Rights; and
3. the BCAFN Chiefs-in-Assembly direct the BCAFN Regional Chief and staff to undertake the above actions in collaboration and coordination with others, similarly affected Indigenous groups outside of BC.

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