



## BC ASSEMBLY OF FIRST NATIONS

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Website: www.bcafn.ca

BCAFN 18<sup>th</sup> ANNUAL SPECIAL CHIEFS MEETING  
March 9 & 10, 2022  
Online via Zoom

Resolution 13/2022

**SUBJECT:** SUPPORT FOR GITXAAŁA LITIGATION AND CALL TO REFORM THE  
*MINERAL TENURE ACT*

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**MOVED BY:** CHIEF AILEEN PRINCE, NAK'AZDLI WHUT'EN

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**SECONDED BY:** CHIEF ED HALL, KWIKWETLEM FIRST NATION

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**DECISION:** CARRIED

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### WHEREAS:

- A. British Columbia's *Mineral Tenure Act* is founded upon and perpetuates racist colonial worldviews that ignore Indigenous peoples, including through an automatic internet-based registration system for mineral claims through which British Columbia purports to grant "free miners" significant rights to Indigenous territories without Indigenous consent, consultation or notice. This includes granting rights to initial exploration, rights to minerals, and a right to replace a mineral claim with a long-term mining lease.
- B. The Gitxaala, in the case of, *Sm'ooygit Nees Hiwaas* (also known as, "Matthew Hill"), on behalf of the *Smygyyetm Gitxaala, and Gitxaala Nation v. British Columbia et al*, are pursuing a legal challenge to quash or set aside certain mineral claims granted in their territories on Banks Island and to obtain declarations that British Columbia has failed to meet its duty to consult and accommodate, as well as to obtain Court declarations that British Columbia's process for granting those mineral claims under the *Mineral Tenure Act* is inconsistent with the honour of the Crown, inconsistent with the *United Nations*

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*Declaration on the Rights of Indigenous Peoples* (the UN Declaration), and further that the Crown has a duty to cooperate with Gitxaala (and other Indigenous peoples) to bring the *Mineral Tenure Act* into alignment with the UN Declaration.

- C. The UN Declaration, which the government of Canada has adopted without qualification, and which British Columbia and Canada have committed to implement through legislation, affirms:

**Article 8 (2)** States shall provide effective mechanisms for prevention of, and redress for: ...

(b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources; ...

**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.

**Article 23** Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. ...

**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.

**(2)** Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

**(3)** States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

**Article 29 (1)** Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.

**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.

**(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

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territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

**(3)** States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact;

D. The provincial *Declaration on the Rights of Indigenous Peoples Act* requires:

3. In consultation and cooperation with the Indigenous peoples in British Columbia, the government must take all measures necessary to ensure the laws of British Columbia are consistent with the Declaration;

E. The *Mineral Tenure Act* directly and significantly impedes the exercise of inherent Indigenous title, jurisdiction, laws and rights.

F. Legislative reform is required to bring the *Mineral Tenure Act* into full alignment with the UN Declaration and British Columbia's constitutional obligations, as well as to better care for lands, waters and ecosystems, and develop public confidence in mineral tenure decision-making.

**THEREFORE BE IT RESOLVED THAT:**

1. That the BCAFN Chiefs-in-Assembly support the Gitxaala in their legal challenge regarding BC's granting of mineral claims under the *Mineral Tenure Act*.

2. That the BCAFN Chiefs-in-Assembly call on the Province of British Columbia to:

- a. promptly and publicly commit to working in full cooperation with First Nations in BC on legislative reform of the *Mineral Tenure Act*; and
- b. carry out this work in full alignment with the United Nations Declaration on the Rights of Indigenous Peoples.

3. that the BCAFN Chiefs-in-Assembly direct the Regional Chief to work with First Nations in BC and like-minded organizations to advocate for legislative reform of the *Mineral Tenure Act*; and

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4. that the BCAFN Chiefs-in-Assembly supports and approves BCAFN's application for Intervenor Status in *Gitxaala Nation v British Columbia et al*, contingent upon funding and resources.

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A handwritten signature in blue ink, appearing to read 'Terry Teegee', is written over a horizontal line.

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Terry Teegee, BC Regional Chief