



BC ASSEMBLY OF FIRST NATIONS

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Prince George, BC V2K 5S3
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BCAFN 19th ANNUAL GENERAL MEETING
September 21, 22 & 23, 2022
Hybrid - In person & online via Zoom

Resolution 27/2022

**SUBJECT: CALL TO PRIORITIZE WATER REVENUE SHARING FRAMEWORKS UNDER BC'S
DECLARATION ACT ACTION PLAN**

Moved BY: CHIEF HARVEY MCLEOD, UPPER NICOLA INDIAN BAND

SECONDED BY: CHIEF STUART JACKSON, LOWER NICOLA INDIAN BAND

DECISION: CARRIED

OPPOSED: CHIEF DON HARRIS, DOUGLAS FIRST NATION

WHEREAS:

- A. First Nations are the original caretakers and stewards of the lands of what is now known as British Columbia, whose inherent and constitutionally protected Aboriginal and Treaty rights supersede Crown jurisdiction;
- B. The Provincial Government's current water referral application, withdrawal process, and water rights assignments fails to obtain free, prior, and informed consent from First Nations Rights and Titleholders;
- C. More than 50,000 water users hold water licenses in BC which are regulated under BC's *Water Sustainability Act* and are allocated under BC's First In Time First In Right allocation system;
- D. The Provincial Government generates approximately \$400 million in revenue from water licenses each year which includes surface water and groundwater license revenues in addition to BC Hydro water license revenues. None of this revenue is currently shared with First Nations.

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Terry Teegee, BC Regional Chief

E. The [Declaration on the Rights of Indigenous Peoples Act](#) (Declaration Act) was unanimously adopted by the BC Government in 2019 which affirms all articles under the *United Nations Declaration on the Rights of Indigenous Peoples* including but not limited to:

Article 2 States shall provide effective mechanisms for prevention of, and redress for:
(a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;
(b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;

Article 11(2) States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious, and spiritual property taken without their free, prior, and informed consent or in violation of their laws, traditions and customs.

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.

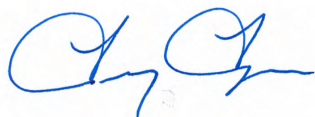
Article 25: Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

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.

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Article 28(1): Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair, and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.

F. Under BC's [Declaration Act Action Plan](#), the Provincial Government commits to the following:

1.4 Co-develop with Indigenous Peoples a new distinctions-based fiscal relationship and framework that supports the operation of Indigenous governments, whether through modern treaties, self-government agreements or advancing the right to self-government through other mechanisms. This work will include collaboration with the government of Canada.

1.5 Co-develop and implement new distinctions-based policy frameworks for resource revenue-sharing and other fiscal mechanisms with Indigenous Peoples.

G. BCAFN Resolution 06(k)2011 mandates the Regional Chief to call on BC to share water revenues equally amongst affected First Nations and the provincial government

H. The First Nations Leadership Council (FNLC) First Nations Water Rights Strategy, which was supported and adopted by the BC Assembly of First Nations (BCAFN), First Nations Summit (FNS), and Union of BC Indian Chiefs in Assembly (UBCIC) in 2013, identifies resource revenue and benefit sharing specific to water as a key political priority for the FNLC's advocacy including undertaking research and information sharing with First Nations.

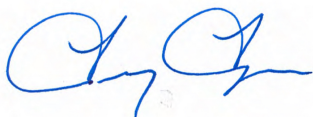
I. The FNLC organizations adopted mirrored resolutions that call on BC to work with First Nations to adopt mutually agreed upon water rental rates for water extraction through BCAFN Resolution 14/2022, UBCIC Resolution 2021-58 and FNS Resolution 0622.14.

J. The FNLC drafted a *Water Revenue Sharing on Water Licenses in British Columbia Discussion Paper* to prompt considerations and discussions with First Nations and BC on potential water revenue sharing frameworks in August 2022.

THEREFORE BE IT RESOLVED THAT:

1. The BCAFN Chiefs-in-Assembly support and endorse the FNLC's *Water Revenue Sharing on Water Licenses in British Columbia Discussion Paper* as a mechanism and framework to initiate discussions with First Nations and BC on water revenue sharing.
2. The BCAFN Chiefs-in-Assembly direct the Regional Chief to call on BC to recognize and honour

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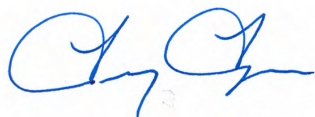


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First Nations' jurisdictional water rights and Indigenous Laws to amend provincial policies, regulation, and legislation that provides for shared decision-making regarding the use and management water as per the principles and standards laid out in the UND and DRIPA.

3. The BCAFN Chiefs-in-Assembly to call on the BC government to ensure engagement with First Nations regarding the return of water resources back to the ecosystem.
4. The BCAFN Chiefs-in-Assembly direct the Regional Chief and BCAFN staff to work with the First Nations Summit and the Union of BC Indian Chiefs as the First Nations Leadership Council to engage with and call on the Provincial Government to:
 - a. Initiate and formalize discussions with BC on Water Revenue sharing with First Nations
 - b. Advocate for the prioritization of water revenue sharing under BC's *Declaration Act Action Plan*
 - c. Advocate for water revenue sharing frameworks to be meaningfully co-developed with First Nations Rights and Titleholders.
 - d. Call for dedicated capacity funding for the FNLC to support discussions with First Nations in BC on water revenue sharing frameworks including determining options for distributing revenues.
 - e. Initiate discussions with the BC government to increase water licence rental rates including all water users inclusive of Crown corporations to levels that both reflect the true administrative, ecological, and restorative costs associated with water use, and encourage water users to maximize efficiency and conservation. Include a regular review of water licence rental rates every 3 to 5 years with Titleholders as a Right within our natural laws, including any exemptions.
5. BCAFN Chiefs-in Assembly ensure that any discussions with BC do not inhibit or obstruct any First Nations undertaking overlapping initiatives or negotiations as part of their right to self determination and sovereign rights.

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