



First Nations Summit Task Group
Suite #1200 – 100 Park Royal South
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By email: cbraker@fns.bc.ca

May 4, 2017

Dear Grand Chief Edward John, Robert Phillips, and Cheryl Casimer:

Thank you for the opportunity to respond to the First Nations Summit Task Group's letter as we head toward Voting Day next week.

We are excited about the path forward for the Province of British Columbia and First Nations. As noted in Premier Christy Clark's response to the First Nations Leadership Council, the relationship between the BC Liberal government and First Nations has been a priority for us, and will continue to be as we work toward reconciliation.

Treaty and Reconciliation

Today's BC Liberals are committed to province-wide reconciliation, and also reconciliation on a nation-to-nation basis. With the guidance of First Nations leaders and Aboriginal people, Today's BC Liberals will continue to work toward meaningful reconciliation.

In terms of treaty negotiations through the BC Treaty Commission, we all recognize that the previous process was too long and costly. As a result, we had a serious dialogue with our treaty partners and we are pleased that we have jointly developed an action plan to address longstanding issues and provide First Nations with flexibility as we move forward.

Negotiations will be streamlined and we will build treaties through a 'stepping stone' approach. It's now up to individual tables to decide to explore these options and we are having a number of positive discussions with interested First Nations. For example, treaty negotiations are being accelerated with the Ditidaht and Pacheedaht First Nations and strong community support is being demonstrated. Negotiation times are expected to decrease by several years. Similarly, our government is in the early stages of work with the Gitga'at to streamline negotiations by focusing on fewer core treaty issues.

To assist this process, we are developing a clearer mandate for the BC Treaty Commission. And with Canada and the First Nations Summit, we are discussing federal proposals to address negotiation support funding and outstanding loans. Our government is hopeful this work will be completed in the summer.

In addition, we have agreed to appoint current Acting Chief Commissioner Celeste Haldane as Chief Commissioner. Her appointment has been confirmed through a provincial Order in Council and we await the government of Canada to do the same. Ms. Haldane provides valuable input and is a strong supporter of efforts to improve treaty negotiations. Her dedication to advancing and achieving treaties will benefit First Nations and all British Columbians.

While this treaty process continues, we are also working toward reconciliation in ways that are less time consuming and bring immediate benefits to First Nations – Today's BC Liberals believe that pursuing economic development and reconciliation with First Nations in British Columbia go hand in hand.

The BC Liberal government has been leading this work collaboratively with First Nations to improve quality of life for Aboriginal people through new economic partnerships, resource development revenue sharing, and closing gaps in health, education, skills training, and employment. As a result of our collective efforts, the Province and First Nations have achieved close to 500 economic and reconciliation agreements over the last decade; nearly 400 in the past five years. Our strategy aligns with the Truth and Reconciliation calls to action and we remain committed to this collaborative approach.

United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

As the federal government works on its commitment to implement the Declaration within existing Canadian law, we will work in partnership with Canada and First Nations on concrete measures to achieve reconciliation.

If re-elected, we commit to further discussions with First Nations Summit representatives at the first opportunity following the swearing-in of a new government. We will conduct those discussions respectfully, representing the full honour of the Crown.

As part of those dialogues, our government would be pleased to talk about reviewing provincial laws and policies related to Indigenous Peoples. We may not always agree on every issue but we are confident that we can and will work through our differences, when they arise.

We are look forward to working with you in the future.

Sincerely,

Rich Coleman and Todd Stone
Campaign Co-chairs
Today's BC Liberals

First Nations Summit

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Premier of BC and
Leader of the BC Liberals
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RE: TREATY NEGOTIATIONS IN BRITISH COLUMBIA

Dear Premier Clark,

As you can appreciate, First Nations across British Columbia are carefully watching the 2017 provincial election with great interest and concern as to who will form the next government. First Nations in BC have specific priorities, including those First Nations currently participating in treaty negotiations.

We write to seek clarity from you as Leader of the BC Liberals in regard to specific commitments you are prepared to make in order to elevate Indigenous issues, in particular made-in-BC Treaty Negotiations, as a top priority within the Liberal government's agenda. We are mindful that advance voting has already begun and general voting day is Tuesday, May 9, but strongly believe that should your party form the next provincial government, your response to this letter will undoubtedly inform and set the tone for our future relationship.

A critical element of the First Nations Summit's work includes identification of concrete steps to overcome treaty negotiation barriers. In First Nations-Crown treaty negotiations we are facing a number of process and substantive issues that pose significant challenges in negotiations, which must be overcome in order to reach treaties, agreements and other constructive arrangements. The First Nations Summit acknowledges British Columbia's previous participation in key initiatives in regard to treaty negotiations in BC but notes that BC's actions and positions on a number of key issues have given rise to additional challenges and barriers to a positive Indigenous-Crown relationship. In particular, BC's commitment to made-in-BC treaty negotiations has been inconsistent.

Without hesitation, the First Nations Summit supports the decision of any First Nation to focus on and enter into alternative agreements and other constructive arrangements to advance the interests and priorities of their respective nations. However, supporting First Nations in achieving full, comprehensive, constitutionally protected treaties, remains the First Nations Summit's objective, consistent with the mandate provided by the First Nations Summit Chiefs in Assembly.

We are of the mind that addressing process and substantive negotiation issues and barriers must be undertaken in the context of the 1991 BC Claims Task Force Report, implementation of the Truth and Reconciliation Commission's (TRC) Calls to Action, and the United Nations *Declaration on the Rights of Indigenous Peoples* (UN *Declaration*). Further, such efforts must also be informed by the current state of relevant case law. For example, the Supreme Court of Canada's decision in *Tsilhqot'in Nation* has provided instructive and significant clarity in regard to Aboriginal title and rights. On this basis, First Nations leadership in BC developed the "Four Principles" of recognition and reconciliation on September 11, 2014.

More specifically, we draw attention to fundamental statements and findings of the Supreme Court of Canada in *Haida Nation v. British Columbia (Minister of Forests)*, [2004] (paras 19-20) which must serve as a foundation for a newly elected provincial government's approach to treaty negotiations:

"Treaties serve to reconcile pre-existing Aboriginal sovereignty with assumed Crown sovereignty."

"The honour of the Crown also infuses the processes of treaty making and treaty interpretation. In making and applying treaties, the Crown must act with honour and integrity, avoiding even the appearance of sharp dealing."

"Where treaties remain to be concluded, the honour of the Crown requires negotiations leading to a just settlement of Aboriginal claims... **Treaties serve to reconcile pre-existing Aboriginal sovereignty with assumed Crown sovereignty.**" (emphasis added)

In addition to such findings, over the past number of years there have been numerous reports, studies and initiatives aimed at improving treaty negotiations in BC. The role of Premier is very important to First Nations in British Columbia as we continue our path to negotiated treaty settlements with the governments of Canada and British Columbia. The individual elected to Office of Premier has the ability to set the tone and direction for provincial officials and representatives tasked with treaty negotiation and implementation.

As the majority of First Nations in British Columbia do not have signed treaties, we developed in conjunction with the governments of Canada and British Columbia a treaty process that would allow for negotiated settlements of long outstanding issues. We look forward to an end to the uncertainty that exists in this province and creating fair and honourable treaties with Canada and British Columbia. The most effective approach to reforming the Crown-First Nations relationship, and achieving important goals such as recognition and reconciliation is to **shift the mindset and build bridges** to a new approach for engaging with one another. In this regard, as directed by Chiefs and Leadership in BC, any provincial engagement structure, processes, agreements, or frameworks for engagement must be fully informed and directly influenced by the four foundational principles:

- Acknowledgement that all our relationships are based on recognition and implementation of the existence of Indigenous peoples' inherent title and rights, and pre-confederation, historic and modern treaties throughout British Columbia.
- Acknowledgement that Indigenous systems of governance and laws are essential to the regulation of lands and resources throughout British Columbia.
- Acknowledgement of the mutual responsibility that all of our government systems shall shift to relationships, negotiations and agreements based on recognition.
- We immediately must move to consent based decision-making and title based fiscal relations, including revenue sharing, in our relationships, negotiations and agreements.

In light of the above mentioned, we seek your response to our interests and concerns. The questions we pose to you for response include:

1. First Nations-Crown treaty negotiations in BC must continue to be a “made-in-BC” process to reflect the unique requirements and interests of First Nations in this province. Will your government commit to providing provincial representatives with comprehensive mandates, reflective of the above noted, to best support efforts to address substantive treaty negotiation challenges and barriers?
2. The First Nations Summit has consistently advocated for the full adoption and implementation of the UN *Declaration* and was present at the United Nations Permanent Forum on May 10, 2016 when representatives of the federal government announced Canada’s fully endorsement, of the UN *Declaration*, without reservation. Is your government prepared to:
 - a. Fully adopt and endorse the UN *Declaration* without reservation?
 - b. Collaboratively work with Indigenous Peoples, consistent with the requirements outlined in the 46 Articles of the UN *Declaration* and the Outcome Document of the World Conference on Indigenous Peoples to implement the UN *Declaration*, and consistent with Canada’s endorsement?
3. Carry out a provincial review of laws and policies related to Indigenous Peoples, in light of current case law and reflective of the TRC Calls to Action, the UN *Declaration* and the Four Principles?

We encourage your government to work closely and collaboratively with First Nations to find common ground as we move forward to address the outstanding land question in BC, seeking fully recognition of Aboriginal and Treaty rights and title. It is imperative that BC’s future engagement with First Nations be premised on substantive and comprehensive mandates which create space for constructive and real change.

Should you and your party be successful in forming the next provincial government, we request an early bilateral meeting with you to brief you on the current state of treaty negotiations in BC from the First Nations perspective and encourage you to seek a meeting of the Principals of the BC treaty negotiation process (First Nations Summit, Canada, British Columbia) as a priority.

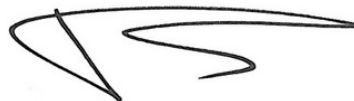
We wish you well in the coming weeks and hope that you share our commitment to ensuring that treaties are negotiated in British Columbia and Aboriginal policies developed that recognize and advance Aboriginal and Treaty rights and title.

Yours sincerely,

FIRST NATIONS SUMMIT TASK GROUP



Grand Chief Edward John



Robert Phillips



Cheryl Casimer

Cc. First Nations Summit Chiefs and leaders