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**TITLE:** **Support for the Kitselas First Nation and for the Union of BC Indian Chiefs in their Joint Application to Intervene in the Judicial Review of the Kitselas Specific Claims Tribunal Decision**

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**SUBJECT:** Specific Claims

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**MOVED BY:** Chief Dan Manuel, Upper Nicola Indian Band, BC

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**SECONDED BY:** Chief Maureen Chapman, Skawahlook First Nation, BC

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**DECISION:** Carried by Consensus

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**WHEREAS:**

- A. On October 16, 2008, the Kitselas First Nation filed a specific claim with the Minister of Aboriginal and Northern Development Canada regarding its unreserved (10 acre) village site adjacent to Kitselas Indian Reserve No. 1.
- B. On October 21, 2009, Canada rejected the specific claim for negotiation, and on September 29, 2011, the Kitselas First Nation filed its rejected specific claim with the Specific Claims Tribunal.
- C. In the interest of Crown-First Nations reconciliation, the Specific Claims Tribunal ("Tribunal") was established by the *Specific Claims Tribunal Act* as an independent body mandated to make binding decisions to resolve specific claims in a timely manner where claims are rejected for negotiation or where negotiations fail.
- D. In February 2013, the Tribunal found that Canada had a fiduciary duty to ensure the village site was allotted as a reserve in 1891 and the Kitselas First Nation successfully established that Canada breached the legal obligations of the Crown.
- E. On March 22, 2013, Canada challenged the Tribunal's decision at the Federal Court of Appeal by applying for judicial review of the Tribunal's decision.
- F. The Kitselas First Nation will receive no financial support from Canada for its necessary participation in this judicial review.

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- G.** The outcome of this review will profoundly impact First Nations across Canada, and the prospects for a meaningful and lasting reconciliation with the Crown since the Court's decision will be binding on the Tribunal in its consideration of all future claims by First Nations. If Canada is able to minimize its responsibilities as a fiduciary, it could succeed in limiting the scope and level of redress and compensation it owes First Nations with specific claims across Canada.
- H.** Canada is entirely and unequivocally undermining the stated objectives of resolving specific claims in an impartial, fair and timely manner to promote meaningful reconciliation between First Nations and the Crown by challenging the legislated authority of the Tribunal to determine questions of law and fact and make binding decisions in accordance with principles of justice.
- I.** The United Nations Declaration on the Rights of Indigenous Peoples 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 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 then 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;
- Article 26(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.

**THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:**

1. Fully support the Kitselas First Nation in its efforts to reach a fair, just and timely resolution of its village site specific claim.
2. Recognize the extreme importance of this proceeding in setting a precedent in the law and defining the authority and relevance of the Specific Claims Tribunal of Canada.
3. Fully support the Union of BC Indian Chiefs and its partners, including seeking resources to provide financial support, in their application to intervene in the judicial review of the Tribunal's decision in the Kitselas village site specific claim.

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