

Tuesday, October 12th, 2021

First Nations Summit
Union of British Columbia Indian Chiefs
B.C. Assembly of First Nations

Via Email: maureen.buchan@B.C.afn.ca,
c/o First Nations Leadership Council

Attention: First Nations Leadership Council

We are in receipt of your letter dated October 4, 2021. I am responding on behalf of the B.C. Métis Federation board, members and Métis partner communities. B.C. Métis Federation represents an estimated 3500 Métis people throughout British Columbia, although this issue reflects the needs of an estimated 90,000 self-identified Métis people in B.C., who are proud and remain committed to address our Métis cultural, social, and economic needs. Our work is not at the expense of the First Nations Leadership Council (FNLC) or any needs of First Nations in B.C. We have publicly communicated our support for First Nations on all issues and respect title and rights of First Nations. B.C. Métis Federation has made numerous attempts to request protocol agreements with FNLC but there has been no response. The lack of mutual respect between FNLC towards the B.C. Métis Federation reflects a culture of intolerance that has far reaching policy and discriminatory implications for Métis people throughout B.C.

The FNLC letter contributes to anti Métis sentiment and racial intolerance that our leadership and members have faced first hand for years in B.C. This notion that there is no Métis history in B.C. is wrong. The notion that there are no modern Métis communities in B.C. is wrong. This notion that Métis are less Indigenous and not recognized has led to serious public confusion and inaccurate understandings for many non-Indigenous British Columbians. It is this anti Métis intolerance in this latest FNLC response letter that must be stopped and illustrates why B.C. needs a distinction-based approach going forward. Meaning the Province must have separate First Nations and Métis engagement. In present day Canada the national consensus is moving away from ignorance and exclusive Indigenous identity politics toward the affirmation of historic and contemporary Métis identities across Canada. It is time for the Province of B.C. and all British Columbians, including First Nations to come to terms with this reality.

Therefore, the following information provides a detailed response to the inaccurate FNLC claims. We also reinforce that at a time of national reconciliation it defies logic to witness the inability of FNLC to reconcile with us as Métis people as your organization publicly demands reconciliation with many sectors of B.C. society. We believe reconciliation is also required between Indigenous people where needed. It is time for First Nations and Métis in B.C. to work together on all issues, in an inclusive and respectful manner.

Li taan paasii. Li taan ki vyayn.

From our past. For our future.

The record is clear that there is oral and historical evidence of mixed blood Métis people in the Pacific Northwest, including within First Nations communities. Recent land-use studies for TC Energy and North River Midstream, for example, provide some historical context.¹

Alongside this irrefutable history of mixed-ancestry relations within BC, are the longstanding practices of racism, discrimination and marginalization. As scholar Adele Perry describes, by the 1860s mixed race Métis relationships were construed as dangerous and a threat to the perceived superiority of settler society and the colonial project. Perry's scholarship uncovers much more: mixed-ancestry children and communities were viewed as deficient, illegitimate, inferior and a threat to the racial purity of British Columbia. Missionaries sought to prevent mixed race relationships while advocating for miscegenation. The Victoria police attacked settlers who lived with Indian women by marginalizing them and limiting their employment. Local police worked to expunge Indian women from white settlements and limit settler men's presence in Indian settlements. Racial segregation in Victoria, in particular, reached new heights through arrests and removals. According to Perry, by the early 1870's officials were fearful of the potential political power of the large mixed blood Métis population in British Columbia in the wake of the Red River resistance in Manitoba. Officials stated that this "race of half-castes" would "prove a curse to the country in the next generation."² By 1892, the Federally appointed Superintendent for Indian Affairs in BC, Arthur Vowell, tabled his "Report on Halfbreeds" which identified mixed-ancestry freemen, established legal mechanisms to separate them from their indigenous kinship networks, and implemented measures to force them to the margins of the province's economy by disregarding their territory and regulating their labour. As scholar Renisa Mawani states "the Federal government's decision to legislate the "halfbreed" as a separate legal and racial category translated into an erasure of identity, rights and territorial claims."³ Thereafter, Métis communities in places like Stanley Park and Banff National Park were targeted and destroyed by the municipal, provincial and federal governments, hundreds, if not thousands, of their children were removed and sent to residential schools across the province, and systemic and targeted racism worked to erase their memory and history from the land.

Sadly, this racialization became entrenched in British Columbia, even among First Nations and other indigenous peoples. In 1975, the president of the BC Association of Non-Status Indians ("BCANSI"), Bill Lightbown, who was of Red River Métis and Kutenai ancestry became frustrated because the urban Indigenous people and on-reserve people were working separately, pulling in different directions and in his words, playing into the Federal government's divide and conquer strategies between Non status Indians and Status Indians, and in many cases competing for recognition and resources. Lightbown advocated for

¹ "Northeast BC Connector (NEBC)." *BC Metis Federation* <https://B.C.Métis.com/projects/northeast-B.C.-connector-neB.C./>

"TC Energy." *BC Metis Federation* <https://bcmetis.com/projects/tc-energy/>

² Adele Perry, *On the Edge of Empire. Gender, Race, and the Making of British Columbia, 1849-1871.* University of Toronto Press, 2001.

³ Renisa Mawani, "In Between and Out of Place: Mixed-Race Identity, Liquor, and the Law in British Columbia, 1850-1913." In Sherene H. Razack (ed.), *Race, Space, and the Law: Unmapping a White Settler Society* 47-69 (Toronto: Between the Lines), 2002.

unity with the intention of bringing all Indigenous people in British Columbia together. BCANSI spent a whole year in meetings with the Union of BC Indians Chiefs with their chief's council discussing how to amalgamate and how this could take place across Canada. Lightbown describes candidly the tensions in negotiations, and how status Indians looked down on Indians who were off the reserve, calling them "outsiders" who didn't belong at the table. In 1976, they held a summit of all the organizations and especially BCANSI and UBCIC. At this meeting, as President of BCANSI, Lightbown brought this resolution to the floor. According to Lightbown, none of the chiefs or leaders who had worked with BCANSI supported him on the resolution!⁴ Systemic racism and discrimination directed towards mixed-ancestry Métis peoples and communities became the norm in B.C. The systemic way mixed-ancestry Métis people were forcibly segregated continues today in the stand of the FNLC. That Métis people in British Columbia are accused of being a threat to Indigenous reconciliation based on the FNLC letter as proposed in the Provincial Declaration on the Rights of Indigenous Peoples Act draft legislation continues this ideology that being Métis in B.C. is still dangerous and 'illegal'.

Instead of the politics of segregation and ongoing colonization of mixed-ancestry Métis peoples, the FNLC should understand the importance of recognizing all Constitutional Indigenous people (First Nations, Métis and Inuit) in B.C. that have legitimate claims to Métis sovereignty and historic community presence in B.C. But in order to do this, of course, the leaders of First Nation organizations have to stop playing the politics of recognition. When you break from using a political contest for a limited number of rights as a form of legitimacy, we may be able to get beyond the basic premises that guide this one-winner-take-all strategy.

In *R. v. Powley* 2003 SCC 43 ("Powley"), the Supreme Court of Canada stated the term Métis, in s. 35 of the *Canadian Constitution*, does not encompass all individuals with mixed Indigenous and European heritage. Rather it refers to a distinctive peoples who, in addition to their mixed ancestry, developed their own customs and recognizable group identity separate from their Indian or Inuit and European forbearers. The Métis communities claiming Indigenous rights must have emerged in an area prior to the Crown effecting control over a non-colonized region. Despite past legal challenges B.C. Métis Federation continues to complete important Métis research specific to British Columbia to address future legal challenges. The following offers Métis research examples which are contrary to the FNLC claims about Métis history in B.C. As provided for at page 9 of the Trans Canada Traditional Knowledge Study:

Unique groups of Métis peoples have a long history of establishing free and independent communities throughout B.C. By the late 1700's, Métis fur traders, diplomats and voyageurs established themselves in the region that is now British Columbia, making the whole of Pacific Northwest prior to British colonization a large interconnecting Métis Province. The archival record and Métis community knowledge in the Pacific Northwest is consistent with the evidence of a Métis presence on the land and water in Southeastern B.C., where they established settlements

⁴ Bill Lightbown, *They Made Me an Outlaw. That's When I Became a Freedom Fighter*. Electromagnetic Print, 2017.

and kinship relations with other Indigenous nations. Some Métis communities have had a strong presence in the Kootenays that predates the 1790s, and they established vast harvesting areas that spanned from the Elko area, all the way to Nelson in the West and Lethbridge in the East. Northwest Company men, like Mackenzie, Fraser and Thompson, were familiar with the area and Thompson navigated the entire course of the Columbia River, including through the Kootenays.

The Trans Canada Knowledge study continues:

From these early expeditions, Métis kinship networks, including the Humpherville, Lussier, Piche, Cardinal, Morigeau, Berland, Montour and Finlay families, were extended into the area. To facilitate their mobility, they often settled in vicinity of the Elko area along corridors like the Dewdney trail, an important trade route from Hope through Trail to Salmo, Creston and Moye. "Half-breeds" used east-west and north-south fur trading routes to move across the land as traders, to harvest in the region as hunters and guides, and to explore the area for early mining possibilities. After the merger of the Northwest Company and the Hudson's Bay Company in 1821, Métis in southeastern B.C. helped to develop a network of trading routes that connected the Kootenays with supply lines from across the Rocky Mountains. In the process, they created a vast, integrated economic and social network across northern B.C. to the coast and down through the interior following various routes to the south coast, and through the Okanagan into Washington and Oregon. Métis freeman functioned as interpreters and guides to explorers like Simpson and acted in their own self-interest as they opened up new regions, especially along the Columbia River corridor.

There is also strong evidence of Métis people residing in the north east of British Columbia as early as the late 1700s. Accounts of the Hudson's Bay Company and Northwest Company in this area describe three types of men as working within these companies' influence, white Canadians, Iroquois Indians, and half-breeds. Many of these so-called half-breeds were founding members of communities that still exist to this day within the Peace River region of B.C.

In reference to the Supreme Court of Canada case discussed above, Powley, Métis people fully meet this test of section 35 rights within the province of B.C. The Métis people described above, often referred to as "half breeds", were people who developed their own distinct customs, and were living in communities that were separate from white Canadians, as well as local First Nations, at this early stage in B.C. history. Importantly, this occurred prior to the exercise of British control within the region in 1846. Therefore, at law, section 35 of the Constitution does not exclude Métis communities within British Columbia, as is wrongfully asserted by the FNLC.

It is worth pointing out that while the Métis in B.C. did exercise site-specific Indigenous rights, not all Section 35 protected rights are necessarily site-specific based. The same applies to Section 35 protected rights held by several First Nations as well in B.C. These rights exist on a continuum. Some Métis communities were more nomadic than others, as was the case in many non-coastal based First Nation communities in B.C.. Most importantly, rather than getting caught up in the false and colonial styled arguments articulated by the FNLC,

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we should focus our inquiry and analysis on what B.C. says about the United Nations Declaration on the Rights of Indigenous Peoples.⁵

In 2007, the United Nations General Assembly adopted the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration). It includes 46 articles covering all facets of human rights of Indigenous peoples such as:

- *culture*
- *identity*
- *religion*
- *language*
- *health*
- *education*
- *community*

As described by the United Nations, the UN Declaration is a “universal framework of minimum standards for the survival, dignity and well-being of the Indigenous peoples of the world and it elaborates on existing human rights standards and fundamental freedoms as they apply to the specific situation of Indigenous peoples.” The provincial government is committed to implementing these human rights in its institutions, laws, policies and practices to advance reconciliation and address the legacy and harms of colonialism on Indigenous peoples.

The UN Declaration emphasizes the Indigenous peoples' rights to live in dignity, to maintain and strengthen Indigenous institutions, cultures and traditions and to pursue self-determined development, in keeping with Indigenous needs and aspirations.

The UN Declaration has been adopted by 148 nations.

B.C.'s Implementation of the UN Declaration

The provincial government passed the Declaration on the Rights of Indigenous Peoples Act (Declaration Act) into law in November 2019. The Declaration Act establishes the UN Declaration as the Province's framework for reconciliation, as called for by the TRC's Calls to Action. This historic legislation was developed in collaboration and consultation with Indigenous partners.

The Declaration Act aims to create a path forward that respects the human rights of Indigenous peoples while introducing better transparency and predictability in the work we do together.

⁵Declaration on the Rights of Indigenous Peoples Act.” *British Columbia*
<https://www2.gov.bc.ca/gov/content/governments/indigenous-people/new-relationship/united-nations-declaration-on-the-rights-of-indigenous-peoples>

The legislation sets out a process to align B.C.'s laws with the UN Declaration. It mandates government to bring provincial laws into harmony with the UN Declaration. It requires development of an action plan to achieve this alignment over time – providing transparency and accountability, the objectives of the UN Declaration. And it requires regular annual reporting on progress to the Legislature, providing transparency and accountability, to monitor progress. In addition, the legislation allows for flexibility for the Province to enter into agreements with a broader range of Indigenous governments. And it provides a framework for decision-making between Indigenous governments and the Province on matters that impact their citizens.

As should be patently obvious, the UN Declaration goes well beyond site-specific rights analysis or court acknowledgment for that matter put forward by FNLC. The UN Declaration covers all facets of the human rights of Indigenous peoples, including but not limited to: culture, identity, religion, language, health, education, and community. This is the Province of B.C.'s "framework for reconciliation," and accordingly, to exclude the B.C. Métis Federation from consultation on the Declaration Act is to subvert the very purpose of the UN Declaration and the *Declaration Act*. The very purpose of the UN Declaration is to achieve a universal framework of minimum standards for the survival, dignity and well-being of the Indigenous peoples, of which the B.C. Métis Federation members and Métis partner communities are unequivocally party to. Further, as stated above, it seeks to empower Indigenous peoples with the right "to live in dignity, to maintain and strengthen Indigenous institutions, cultures and traditions and to pursue self-determined development, in keeping with Indigenous needs and aspirations." The FNLC has no right or standing to tell us who we are and how we pursue our Métis self-determined development.

For these and other reasons, it is patently obvious and demonstrable that the B.C. Métis Federation is perfectly politically and legally entitled to seek to be consulted on matters relating to the Declaration on the Rights of Indigenous Peoples Act (Declaration Act) in British Columbia. To deny such consultation is to engage in neo-colonialism, to discriminate, and to not follow the spirit and intent of both the UN Declaration and the Declaration Act proposed in B.C.

In closing, we are very saddened and shocked to see the colonialist and anti UN Declaration and Declaration Act espoused by the FNLC in their recent letter of October 4, 2021. It is truly regrettable when those who were themselves historically oppressed become the oppressors they once reviled.

We trust and expect B.C. has read the UN Declaration, understands its content, and will implement the Declaration Act in a non-discriminatory and equitable manner. We will be reaching out to B.C. to address this most unwarranted, unfounded, and unreconciliatory letter correspondence received by the FNLC.

Respectfully,



Keith Henry
President
B.C. Métis Federation

cc: Hon. John Horgan, Premier of B.C.
Hon. Murray Rankin, Minister of Indigenous Relations and Reconciliation

Encl. FNLC Letter October 4th DRIPA