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**TITLE:** Support for Ross River Dena Council Court Case Condemning Free Entry Mining

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**SUBJECT:** Resource Development

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**MOVED BY:** Chief Brian Ladue, Ross River Dena Council, YK

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**SECONDED BY:** Victor Kisoun, Proxy, Lower Post First Nation, BC

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**DECISION:** Carried by Consensus

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**WHEREAS:**

- A. The United Nation Declaration on the Rights of Indigenous Peoples (UNDRIP) requires states to consult and cooperate in good faith with Indigenous Peoples concerning 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.
- B. Mining projects across Canada are often the source of great conflict with First Nations on whose territories most of the ore and minerals are found.
- C. Mineral tenure is granted under a system often referred to as the free entry system which allows prospectors to freely enter onto public lands to explore for minerals and acquire right to these minerals. The free entry system has been used for centuries in Canada.
- D. "Free-entry" is a pivotal feature of laws, policies and legislation related to mining in Canada and completely contrary to the UNDRIP principle of "free, prior and informed consent".
- E. The Kaska Nation and many other First Nations across the country are working to influence governments that if there is to be peace and partnerships to encourage mining development then mining laws must be reformed and "free entry mining" must come to and end.
- F. In December 2012, the Yukon Court of Appeal in the Ross River Dena Council case , affirmed that there was a duty to consult on mining claims and agreed with the Kaska that the constitutional doctrines as set out in *Haida* require the Crown to consult and where appropriate accommodate *before* granting the mining claims.

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**Certified copy of a resolution adopted on the 17th day of July, 2013 in Whitehorse, Yukon**

- G.** This ruling has implications for mining across the country; and the Government of Yukon has sought leave to appeal the ruling to the Supreme Court of Canada.

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

1. Support the Ross River Dena Council and the Kaska Nation in their ongoing struggle to ensure the ruling condemning the free entry system continues to be respected.
2. Direct the National Chief and Executive of the AFN to support and actively advocate for a joint reform process of provincial and territorial mining legislation across the country.

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