ANNUAL GENERAL ASSEMBLY
JULY 12, 13 & 14, 2011, MONCTON, NB

Resolution no. 35/2011

TITLE:	Water Rights and Consultation with First Nations
SUBJECT:	Water
MOVED BY:	Chief Byron Louis, Okanagan Indian Band, BC
SECONDED BY:	Chief Maureen Chapman, Skawahlook First Nation, BC
DECISION:	Carried by Consensus

WHEREAS:

A. Article 27 of *The United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) declares: "States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories, and resources, including those which were traditionally owned or otherwise occupied or used [and] Indigenous peoples shall have the right to participate in this process."

B. Article 32 of the UNDRIP further declares: "States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources."

C. First Nations have strong cultural and treaty connections to the lakes, rivers, streams, springs and muskeg within their traditional territory.

D. The exercise of Aboriginal and Treaty Rights requires clean, fresh water systems to support life on the land.

E. First Nations have constitutionally protected Aboriginal Rights to ownership and jurisdiction over water, and some First Nations are exercising their jurisdiction over this resource.

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F. Water rights applications and water rights assignments are delegated to the Provinces and continue to occur without consultation with, or the prior consent of First Nations.

G. There is no demonstrated coordination between Provincial government agencies to ensure adequate consultation with First Nations before water rights are assigned.

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

1. Direct the National Chief to instruct the Provinces and Canada that the prior and un-extinguished water rights of the First Nations of British Columbia must be addressed and given priority before the Province assigns either short-term or long-term water access and water use rights to third parties in First Nations' territories.
2. Direct the National Chief to instruct the Provinces and Canada that mutually-negotiated water consultation protocols between individual First Nations and the Provincial government must be a prerequisite before all future water rights are assigned and that adequate consultations between First Nations and the Provincial governments result in up-front watershed planning that considers the cumulative impacts on First Nations' lands and resources.
3. Direct the National Chief to instruct the Provinces that First Nations strongly endorse a coordinated approach to water application reviews and water rights assignments that demonstrates clear coordination between Provincial agencies and that is transparent to First Nations.
4. Direct the National Chief to instruct the Provinces that First Nations strongly endorse water conservation measures that ensure the highest environmental protections and that in the event that water-pricing is implemented as a means of achieving greater water conservation and protection that revenues are shared equally between affected First Nations and the Provincial government.

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