This written form of T̓silhqot’ín dechen ts’edilhtan was adopted by the ?Esdilagh First Nation Chief and Council on May 27, 2020, and endorsed by the T̓silhqot’ín Council of Chiefs on May 28, 2020.
PREAMBLE

A. We, the ?Esdilagh people of the Tšilhqot’in Nation are proud to stand up our Tšilhqot’in dechen ts’edilhtan (literal translation “laying down the stick”, in English the term is better known as “law”) in its written form. This Law is an expression of a critical component of broader Tšilhqot’in dechen ts’edilhtan. Our Nation’s relationships to our territory make us who we are; the Tšilhqot’in Nation, The River People. These relationships define us a Nation and highlight our protection and stewardship responsibilities that are grounded in our inherent and self-government rights. The tu (“waters”) in our territory, including ?Elhdaqox, are vital to our Nation. We cannot survive without them. The tu that our babies are carried in in the womb is sacred and is a direct connection to the tu in our landscape which continues to give us life after we are born. It is therefore critical we express this dechen ts’edilhtan in written form to protect the tu within our territory for our children, grandchildren and the generations to come.

B. We, the people of the ?Esdilagh First Nation (translated as Where the Land meets the Water) of the Tšilhqot’in Nation live in the mountainous region on both sides of the Fraser River, between Williams Lake, B.C and Quesnel, B.C. The ?Esdilagh of ?Elhdaqox (Sturgeon River, also known as the Fraser River) are multi-cultural and are related to multiple cultural and language groups, the Tšilhqot’in, Secwepemc and Dakelh nations.

C. We, the Tšilhqot’in Nation, have occupied our ancestral nen (“lands”) since time immemorial. We hold and maintain Indigenous rights and title to our nen and tu. Our identity is bound to our nen and tu. They are fundamentally connected and cannot be separated. The tu run throughout our territory and sustain our Nation. We have never ceded, surrendered or abandoned our rights, title and responsibilities to our nen and tu. Our rights are sacred and our responsibilities extend throughout our territory, including ?Elhdaqox. ?Elhdaqox has sustained us for generations. Our way of life is dependent on the health and wellness of ?Elhdaqox. Our Tšilhqot’in culture, livelihood and governance are inextricably linked to the tu and life (including fish) in ?Elhdaqox.

D. The Tšilhqot’in Nation have a responsibility to ensure the tu is safe and clean for current and future generations and we exercise this responsibility as part of our right to govern and steward the use and the management of tu in our territory. Our teachings govern our daily obligations which include taking only what we need, ensuring that tu sources are kept clean, refraining from placing anything into ?Elhdaqox that would degrade it, and immediately pursuing corrective steps to restore the health of ecosystems when damaged. The health of ?Elhdaqox and the life it sustains are of fundamental importance to our continued preservation of the Tšilhqot’in way of life. We have always relied on ?Elhdaqox to drink, fish, swim, carry out our sacred ceremonies, travel and generally exercise our rights.

E. The Tšilhqot’in Nation must ensure the transmission of knowledge about ?Elhdaqox to our children. Intergenerational knowledge guides people to use tu and nen in predictable ways that ensure sustainability and our ongoing ability to meaningfully exercise our inherent and constitutionally protected rights.

F. The ?Elhdaqox is the main river of a network of streams, lakes and wetlands that make up the ?Elhdaqox watershed. From time immemorial the ?Elhdaqox has supported a diversity of aquatic and upland species foundational to the Tšilhqot’in way of life and Indigenous rights including aquatic plants, aquatic invertebrates, and fish, such as ?Elhdachugh (sturgeon), Ts’eman...
(sockeye salmon), Jaš (chinook salmon), Lhu šilh ch’il (whitefish), Sabay (bull trout), Tislagh (steelhead trout), Tsintil (burbot), Dandzex (coho salmon), and Jaš lant’eh (pink salmon). ḤElhdaqox aquatic and riparian habitats also support a diversity of aquatic-dependent wildlife, such as amphibians, birds, and mammals the Ts'ilqot'in Nation rely on.

G. Colonial governments have introduced and enforced unlawful and unjust mechanisms resulting in violations of our rights to the use, management and benefit of our nen and our tu, without consultation, consent or just compensation. Furthermore, settler governments have grossly mismanaged the nen and tu causing ecosystem collapse, human induced climate change, severe tu quality degradation, extreme stress upon ecologies and the extinction of species at an unprecedented scale and rate. Several ts'eman runs are extirpated, or are on a worrisome decline within the watershed. It is evident that the existing regulatory processes have not protected our nen and tu.

H. Ts'ilqot'in people have suffered severe and widespread detrimental and cumulative impacts to all aspects of our lives and livelihoods as a result of being denied access to our nen and tu. Subsequently, the gross mismanagement of the nen and tu has caused significant adverse impacts and harm to our health, economy and social well-being.

I. We remain strong in our sovereignty that was handed down from the ḤEsggidam (ancestors) and our Ts'ilqot'in War Chiefs who sacrificed their lives for our people and our way of life. Their teachings include the dechen ts'edilhtan. Since time immemorial, the ḤEsggidam have thrived as a powerful Nation, guided by the wisdom of our legends and our dechen ts'edilhtan. Our ancestral creation stories define who we are and guide our cultural and traditional protocols.

J. We, as Ts'ilqot'in people, have exercised and continue to exercise authority and jurisdiction over our nen and tu through our values, principles and Dechen Ts’edilhtan. Our inherent lawful authority is recognized and affirmed under s. 35 of the Constitution Act, 1982, in Canadian jurisprudencei, as well as in the United Nations Declaration on the Rights of Indigenous Peoplesii.

K. Any proposed activities within our territory, which could impact ḤElhdaqox, must have our free, prior and informed consent. We mandate all Persons to comply with our laws and rights in the use of ḤElhdaqox. All economic development within and along the waterways and tributaries affecting ḤElhdaqox, must also align with our rights and obligations to protect our sacred nen and tu. The Ts'ilqot'in Nation recognize ḤEsdilagh responsibilities over its Caretaker Area, which includes ḤElhdaqox. We support sustainable economic development initiatives that respect our rights and responsibilities.

L. The ḤEsdilagh are at a time in our history where it has become necessary to share our dechen ts’edilhtan in writing as part of our laws that bind us as Ts'ilqot'in people. We have been preparing to formally record our tu laws in writing for several years. This law is the first we publically share in a formal written format as part of our exercise of our caretaker role within the Ts'ilqot'in Nation. We realize the contemporary necessity in recording our laws in English written form, even though many deeply embedded teachings are lost in translation. We also realize the necessity in developing new approaches in our laws to protecting our nen and tu in the current reality.
PART 1 – PURPOSE, VALUES, AND PRINCIPLES

Purpose

1. The ʔEsdilagh of the Tŝilhqot’in Nation have rights and responsibilities as caretakers of ʔElhdaqox to ensure that ʔElhdaqox provides for the entire Tŝilhqot’in Nation and is protected for this generation and the generations to come.

2. The purpose of this Law is to ensure ʔElhdaqox is managed and protected in accordance with Tŝilhqot’in dechen ts’edilhtan to ensure ʔElhdaqox is healthy.

Values

3. (1) The following values form the foundation of Tŝilhqot’in laws regarding ʔElhdaqox:
   (a) Tu is sacred;
   (b) Tŝilhqot’in people have a sacred relationship with ʔElhdaqox and we have an ancestral responsibility to ʔElhdaqox that defines us as Tŝilhqot’in people;
   (c) Tu is a gift, not a resource;
   (d) Tŝilhqot’in birth givers carry the first tu we live in to bring us the next generation. Without healthy tu we would not exist today;
   (e) ʔElhdaqox cannot be subject to pollution or harm;
   (f) Humans and non-humans are interconnected and their actions impact one another;
   (g) There are consequences for mistreating ʔElhdaqox. ʔElhdaqox is powerful and any mistreatment of it can have dire foreseen and unforeseen consequences for the next generations;
   (h) Tŝilhqot’in people rely on ʔElhdaqox for our survival. We must take care of it so it will take care of us. Without this tu there would be no animals, no plants, and no people;
   (i) Tŝilhqot’in people must respect ʔElhdaqox as a responsibility and dechen ts’edilhtan of the Tŝilhqot’in people;
   (j) The Tŝilhqot’in peoples’ duty and authority to govern tu and manage fish populations is grounded in our ancestral connection to our territory;
   (k) Tu is a life form, it has its own spirit with human qualities;
   (l) Sharing ʔElhdaqox ensures the well-being and survival of others;
   (m) Tŝilhqot’in people have a special relationship with the ʔElhdachugh (sturgeon), Ts’eman (sockeye salmon), Jaš (chinook salmon), Lhu šilh ch’il (whitefish), Sabay (bull trout), Tislagh (steelhead trout), Tśintil (burbot), Dandzex (coho salmon), Jaš lant’eh (pink salmon) from ʔElhdaqox; and,
   (n) We are deeply grateful for ʔElhdaqox.
Principles

4. (1) The following principles apply to ?Elhdaqox:

(a) We must maintain the health of the tu and surrounding nen. Nothing should be put into the tu that would harm it. We have a duty to the next generations to leave the nen and tu clean and safe for their use;
(b) We must only take and use what tu is minimally required from ?Elhdaqox and leave plenty of resources behind for other species and future generations;
(c) Tšilhqot’in people cannot be healthy unless their tu are;
(d) Tšilhqot’in people must be pro-active in planning and managing the care of ?Elhdaqox;
(e) We must consider the needs of the fish, plants and other relations before we take, use, or allow the use of any tu;
(f) People, animals, fish, plants, the nen, and the tu have rights in the decisions about their care and use that must be considered and respected;
(g) Tu in ?Elhdaqox must be sufficient in river flows, quality and conditions to support annual salmon returns from the ocean to the rivers of the Tšilhqot’in territory, and to support healthy resident fish populations including the distinct mid-river white sturgeon population;
(h) We must share our tu with those in need but our community’s needs must be met;
(i) We have been taught that there are consequences if we disrespect or improperly use or pollute ?Elhdaqox;
(j) Tšilhqot’in people have a responsibility to regulate activities related to the use of tu in accordance with their inherent stewardship rights; and,
(k) Tšilhqot’in people have a duty to teach our dechen ts’edilhtan to our youth and non-Tšilhqot’in about respecting tu.

PART 2 – INTRODUCTORY PROVISIONS

Definitions

5. (1) In this Law:

“Council” means the Chief and Council of ?Esdilagh First Nation, which is elected pursuant to ?Esdilagh First Nation Election Code;

“?Esdilagh Caretaker Area” means the area ?Esdilagh historically and contemporaneously occupy and that ?Esdilagh are responsible to manage and protect in accordance with Tšilhqot’in dechen ts’edilhtan;

“?Esdilagh Government” means either the Council, or the administrative body implementing Tšilhqot’in laws and policies within the ?Esdilagh Caretaker Area, whichever is appropriate in the circumstances;

“?Elhdaqox” means the Sturgeon River (otherwise known as the Fraser River), as depicted in Schedule A, and all its tributaries, including groundwater, within the ?Esdilagh Caretaker Area;
“Free, Prior and Informed Consent” or “FPIC” includes, at a minimum, the specific right that is recognized in the *United Nations Declaration on the Rights of Indigenous People* and embedded within the universal right to self-determination. FPIC in the context of this Law means the ?Esdilagh people have the right to give or withhold consent to a project that may affect them, their rights, or their territory, including the ?Elhdaqox. FPIC enables ?Esdilagh people to direct the conditions under which a project will be designed, implemented, monitored and evaluated;

“Habitat” means the area or type of site where fish, plants and wildlife:
(a) naturally occur;
(b) depend on directly or indirectly in order to carry out life processes; or
(c) formerly occurred and have the potential to be reintroduced;

“Law” means ?Elhdaqox Dechen Ts’edilhtan, or the ?Esdilagh Sturgeon River Law;

“Fish” means all species of fish living in ?Elhdaqox including all salmon species and sturgeon; and,

“Persons” includes a corporation, partnership or party, and the personal or other legal representatives of a person to whom the context can apply according to law.

**Area of Application and Scope of Law**

6. The scope of the application of this Law is ?Elhdaqox.

7. This Law applies to Persons using ?Elhdaqox, discharging into ?Elhdaqox, or impacting Tsilhqot’in title, rights and interests to ?Elhdaqox.

**Tsilhqot’in Title and Rights**

8. The Aboriginal title and rights of the Tsilhqot’in people includes the *tu* in our territory, including ?Elhdaqox. *Nen* and *tu* cannot be separated but are interconnected.

**Tsilhqot’in Rights to ?Elhdaqox**

9. Tsilhqot’in people have a right to:
   (a) clean *tu* from ?Elhdaqox; and,
   (b) use and access *tu* from ?Elhdaqox for basic human needs, social, economic and cultural purposes, and the exercise of our Aboriginal rights; and,
   (c) ?Elhdaqox for safe and unhindered navigation.

10. Tsilhqot’in people have a right to FPIC on all uses, projects, or proposed projects that may affect or impact ?Elhdaqox and/or our Aboriginal rights that depend on.

11. Tsilhqot’in people have a right to participate in decisions on the planning, and management of ?Elhdaqox. This right, with respect to the ?Esdilagh Caretaker Area, may be made operational through engagement with the ?Esdilagh Government utilizing the principles of FPIC.
PART 3 – ORDERS, PERMITS AND AUTHORIZATIONS

ʔElhdaqox

12. ʔElhdaqox is of vital cultural, spiritual, ecological and economic importance to the Tšilhqot’in Nation and has been since time immemorial.

13. ʔElhdaqox must be protected and maintained in its natural conditions in terms of quality and quantity. ʔElhdaqox must not be subject to degradation of its natural condition including discharging effluent that is of lower quality than ʔElhdaqox or use of ʔElhdaqox for dilution purposes.

14. The protection of ʔElhdachugh (sturgeon), Ts’eman (sockeye salmon), Jaš (chinook salmon), Lhu šilh ch’il (whitefish), Sabay (bull trout), Tislagh (steelhead trout), Tšintil (burbot), Dandzex (coho salmon), Jaš lant’eh (pink salmon), other fish, plants, and animals the Tšilhqot’in people rely on from ʔElhdaqox, and their Habitat, is paramount to all decisions by ʔEsdilagh Government made under this Law.

PART 4 – MANAGEMENT OF ʔELHDAQOX

15. ʔEsdilagh Government may make orders, or regulations, or issue permits or other authorizations for Persons, projects, or proposed projects that may impact ʔElhdaqox, to ensure compliance with this Law (each an “Authorization”).

16. No person may undertake any use or activity, or construct, operate, modify or abandon a project, with the potential to negatively affect ʔElhdaqox or contravene the protections set out in this Law unless the person first obtains an Authorization.

17. ʔEsdilagh Government may attach terms or conditions to any Authorization, including but not limited to:
   a. monitoring;
   b. reporting;
   c. adaptive management; and,
   d. other appropriate terms or conditions,

18. ʔEsdilagh Government must not grant an Authorization for any use, project or proposed project that could adversely impact the quality, quantity of tu in ʔElhdaqox or Tšilhqot’in rights and responsibilities.

19. Any Authorization granted under section 15 must be based on the legal principles established under FPIC.

20. Any applicant for an Authorization, at the applicant’s own expense, must research current and historic information on Tšilhqot’in use as directed by ʔEsdilagh Government.
21. Any applicant for an Authorization, at the applicant's own expense, must compile adequate background data on quality and quantity of ʔElhdaqox prior to making any application for any Authorization.

22. ʔEsdilagh Government may suspend or cancel an Authorization where necessary to protect fish, Habitat, water flow, or for reasons of non-compliance.

23. ʔEsdilagh Government may impose reasonable monetary prescribed penalties to finance the costs of recovery for harm caused by a person using, or harm the person using is responsible for, under any Authorization.

24. ʔEsdilagh Government may inquire into compliance and monitoring of projects within the ʔEsdilagh Caretaker Area and an Authorization holder must, at their own expense, provide requested information to ʔEsdilagh Government within 72 hours, subject to other directives made by ʔEsdilagh Government.

25. ʔEsdilagh Government may require a holder of an Authorization, at the holder's expense, to communicate and coordinate their activities with other Authorization applicants or holders.

Emergency Protection Order

26. ʔEsdilagh Government may make a temporary protection order, based on sufficient evidence that one is warranted, such as:
   (a) A declaration of significant tu shortage protection order;
   (b) Serious adverse harm to ʔElhdaqox protection order;
   (c) A critical environmental flow protection order; or,
   (d) A fish population, or fish Habitat, protection order.

27. A temporary protection order made by ʔEsdilagh Government is intended to address the critical environmental concern identified in section 26.

28. ʔEsdilagh Government may add, or alter conditions of any Authorization, or temporarily suspend Authorizations, to address the issues that caused a temporary protection order to be ordered.

29. ʔEsdilagh Government will repeal any temporary protection order, based on sufficient evidence, if it is no longer warranted.

Immediate Action to Prevent or Repair Harm

30. Any Authorization holder must, at the holder's expense, immediately intervene in situations to prevent harm, or further harm, under an Authorization.

32. All Authorization holders must, at the holder's expense, take prompt action to remediate and restore the health of ?Elhdaqox for harm caused, directly or indirectly, under an Authorization.

33. ?Esdilagh Government may add or amend terms or conditions to an Authorization to take corrective action where reasonably warranted under this section.

34. ?Esdilagh Government may require a holder of an Authorization to collaborate with ?Esdilagh Government to determine the appropriate corrective measure under this section.

**Emergency Use or Testing**

35. A person is not prohibited from:
   (a) diverting or storing and beneficially using *tu* from a stream or an aquifer for extinguishing a fire, but if flow is diverted from a stream channel for that use, the flow must promptly be restored to that stream channel when the fire extinguished, or
   (b) diverting *tu* to test the quality or quantity or to conduct a flow test.

**Shared Planning and Management of ?Elhdaqox**

36. Council may enter into agreements with other parties and governments regarding the use of *tu* in the ?Esdilagh Caretaker Area that comply with this Law.

37. When responding to applications for projects, or proposed projects, or other activities, that may affect ?Elhdaqox, the ?Esdilagh Government will engage:
   a. its community on critical decisions; and,
   b. specific knowledge holders, such as the elders, Women's Council, or medicine people, in decisions where appropriate.

38. In cases of conflict regarding uses of ?Elhdaqox the following dispute resolution processes must be followed:
   a. observing the *nen* and gathering information;
   b. consulting key knowledge holders;
   c. seeking permission from the Tšilhqot'in people;
   d. planning or determining appropriate responses; and,
   e. discussion with applicable interest holders to seek an appropriate resolution that aligns with this Law.
Inter-governmental/Inter-Jurisdictional Management of ʔElhdaqox

39. The ʔEsdiłágł Government may collaborate with surrounding federal, provincial, First Nation, regional, local or municipal governments on the planning and management of ʔElhdaqox to ensure the effectiveness of this Law and the achievement of its purposes.

PART 4 – GENERAL PROVISIONS

Enactment, Amendment, and Repeal of Law

40. ʔEsdiłágł Government may enact, amend, or repeal this Law by consensus of the Council.

Power to Enact Regulations

41. Further laws, regulations and policies may be enacted by ʔEsdiłágł Government and/or Tšilhqot’in Nation to implement this Law. Such laws, regulations and policies must be consistent with this Law.

Review of law

42. Any amendment or repeal of this Law pursuant to section 40 may only be carried out after the ʔEsdiłágł Government has engaged the Tšilhqot’in people and taken into account any direction provided.

Inherent Jurisdiction

43. This Law is enacted pursuant to the Tšilhqot’in inherent jurisdiction, self-governance and law-making authority.

Endorsement of Law

44. By Nation Resolution, the Tšilhqot’in Council of Chiefs may:

(a) following enactment of this law by ʔEsdiłágł Government Council, endorse this law;

(b) following amendment of this law by ʔEsdiłágł Government Council, endorse any amendments to this Law; and,

(c) following repeal of this law by ʔEsdiłágł Government Council, endorse the repeal of this law.
Date Written Law Adopted

45. This written Law has been adopted by consensus of the Council on May 27, 2020.

BY CONSENSUS:

__________________________________
Chief Victor Roy Stump

__________________________________  ________________  ________________
Councillor William Baptiste          Councillor Howard Johnny  Councillor Chad Stump
This map is illustrative only. Do not rely on this map as being a precise location of features, routes or boundaries, including the boundaries of the declaration of Aboriginal Title, or for any representations, express or implied.
"The history of the interface of Europeans and the common law with aboriginal peoples is a long one... Yet running through this history, from its earliest beginnings to the present time is a golden thread – the recognition by the common law of the ancestral laws and customs of the aboriginal peoples who occupied the land prior to European settlement," (R. v Van der Peet, 2 S.C.R. 507). (R. v Van der Peet, 2 S.C.R. 507). [A]boriginal interests and customary laws were presumed to survive the assertion of sovereignty and were absorbed into the common law as rights... (Mitchell v MNR, 1 S.C.R. 911) ...the recognition of Indigenous peoples’ power to make laws is central to reconciliation. (The Truth and Reconciliation Commission of Canada).

Key Articles of United Nations Declaration on the Rights of Indigenous Peoples:

Article 18 Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

Article 19 States shall consult and cooperate in good faith with the indigenous peoples concerned 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.

Article 20
1. Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.
2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.

Article 23 Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

Article 25 Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

Article 26
1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
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.
3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

Article 29
1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.
2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.
3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.

Article 32
1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.
2. 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. 3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

Article 40 Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.