



FIRST NATIONS SUMMIT

NEWS RELEASE

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FIRST NATIONS CONDEMN TURNING BACK OF LEGAL CLOCK BY BC COURT OF APPEAL IN TSILHQOT'IN DECISION

Coast Salish Territory (Vancouver, BC) – The First Nations Summit rejects and condemns the BC Court of Appeal (BCAA) decision in the Tsilhqot'in Nation case (*William v. British Columbia*) that there can never be First Nations held Aboriginal Title grounded in our territories which make up the lands now called British Columbia. The view of the court that "...Aboriginal title cannot generally be proven on a territorial basis..." is a gross misreading of decades of case law and regresses the development of the concept of Aboriginal Title to site-specific salt licks, fishing rocks and buffalo jumps.

The BCCA's exceptionally narrow decision does not in any way assist in efforts toward reconciliation. If this same reasoning from the BCCA were to be applied to the existence of Crown title in BC, how can the Province then justify its claim to Crown sovereignty over the lands of this province?", said Grand Chief Edward John, of the First Nations Summit Political Executive.

Chief John stated, "There is no doubt there is now a double standard applying to the existence of Aboriginal and Crown title. It is inexplicable how the onus is on the original peoples of the lands having to prove their existence as peoples and that of their land rights while the Crown governments do not have to prove the legitimacy of Crown title to lands traditionally held by First Nations."

The BCCA did decide to preserve certain aspects of Tsilhqot'in 'Aboriginal' Rights. This is important because based on these rights both governments have constitutional (s. 35) based obligations to protect their rights. They cannot simply run roughshod over these. As well, the standard in the UN *Declaration on the Rights of Indigenous Peoples* requiring the free, prior and informed consent is absolutely necessary to protect Indigenous Peoples' rights.

"The BCCA decision has made it clear that First Nations have Aboriginal Rights within our respective territories. We welcome that. But the Court's decision also moves us significantly backward - reflecting an ignorance of Aboriginal cultures and peoples, ways of life, and our lands and resources. It also is out of step with the course of the law which has reflected greater understanding of the First Peoples of this country and the elements of Aboriginal Title which have never been surrendered", said Chief Doug White, also of the First Nations Summit Political Executive.

"Justice Vickers indicated in his original judgment that it would be tragic if reconciliation were further postponed through seemingly endless and costly appeals. Unfortunately for the Tsilhqot'in Nation, it looks like there will be yet another costly step in fighting for the recognition of their Aboriginal Title" said Chief Doug White. "As we have always said, we are ready and willing to work with the federal and provincial governments to improve negotiations mandates and processes in order to achieve just, honourable and timely reconciliation by this generation of Canadians. But negotiations will not progress in a climate that has the courts propounding misconceptions and misunderstandings about the relationship between Aboriginal peoples and the land. I fear this case might seriously set back negotiations of both interim agreements and treaties. "

"As far as First Nations in BC are concerned, we hold Aboriginal Title to every part of our respective traditional lands and territories. We do not accept the BC Court of Appeal's view that the land rights and Aboriginal Title we inherited from our ancestors applies only to salt licks and fishing rocks. As the Supreme Court of Canada has affirmed in numerous cases, Aboriginal Title has never been extinguished in the past or now", said Chief John.

"The Tsilhqot'in will appeal the Aboriginal Title issue and we completely support this", added Chief John.

Originally brought to the courts by then-Chief Roger William, on behalf of all Xeni Gwet'in and Tsilhqot'in people, this action sought declarations of Aboriginal Title to part of the Cariboo-Chilcotin region of British Columbia. The original trial commenced in Victoria in November 1992 and included 339 trial days at a cost of over \$30 million. The 2007 BC Supreme Court decision was appealed in the BC Court of Appeal in 2010.

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The First Nations Summit speaks on behalf of First Nations involved in treaty negotiations in British Columbia. The Summit is also a NGO in Special Consultative Status with the Economic and Social Council of the United Nations. Further background information on the Summit may be found at www.fns.bc.ca.

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