

First Nations Summit

STATEMENT

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First Nations Summit disappointed with Supreme Court judgment

Coast Salish Territory, Vancouver, British Columbia – Leaders of the First Nations Summit (FNS) are expressing disappointment in yesterday's Supreme Court of Canada (SCC) 7-2 decision dismissing the appeal of the Ktunaxa Nation.

While we are disappointed with yesterday's decision, we must commend the Ktunaxa Nation for their hard work and the twenty-five-year struggle to protect the sacred site known as Qat'muk. We hold our hands up to the Ktunaxa for their willingness to openly share sacredly held spiritual beliefs in an attempt to have the Court understand the importance of the sacredness of the site at which their spiritual beliefs are manifested.

The decision highlights the disconnect of the SCC with Indigenous Peoples of this country. In particular, it demonstrates that our Supreme Court continues to struggle with the core essence of reconciliation. The FNS is disappointed with the Court's unwillingness to understand the spirituality of Indigenous peoples, the need to protect and preserve spiritual beliefs, sacred sites connected to those beliefs and the non-western ways in which Indigenous spirituality is manifested.

Although we applaud the Ktunaxa Nation in their perseverance and acknowledge the federal government for standing with the Ktunaxa Nation, it is a sad day for Canadians attempting to walk down the path of reconciliation.

This decision serves as a somber and timely reminder of the vital need for review of federal and provincial laws, policies and operational practices. Further, it highlights the importance of adopting federal legislation to implement the United Nations Declaration on the Rights of Indigenous Peoples. The SCC has missed the mark in giving life to Article 25 of the Declaration which provides that:

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.

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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 information on the First Nations Summit may be found at www.fns.bc.ca.

Background

The Ktunaxa Nation has been opposed to the application to develop an all-seasons ski resort since it was first proposed in 1991, based principally on the spiritual importance of the Qat'muk area for Ktunaxa people. The Ktunaxa Nation is also concerned about the protection of wildlife populations (especially grizzly bears), biodiversity and water quality. On November 15, 2010, the Ktunaxa Nation Council, on behalf of the Ktunaxa Nation, signed the Qat'muk Declaration, which sets out the Ktunaxa Nation's connection to Qat'muk, proclaims a framework for protection of the Qat'muk area, identifies Qat'muk Stewardship Principles and sets out the Ktunaxa Nation's intention to prepare a management plan in consultation with other governments and stakeholders.

On March 17, 2016, the Supreme Court of Canada (SCC) granted the Ktunaxa Nation Council leave to appeal the August 6, 2015, BC Court of Appeal decision regarding BC's approval of a Master Development Agreement for a proposed ski resort in an area known as Qat'muk, an area integrally connected with Ktunaxa spiritual beliefs and practices.

The SCC appeal addresses not only whether the freedom of religion guarantee in the Canadian Charter of Rights and Freedoms encompasses Ktunaxa spiritual beliefs and practices in this case, but also the extent to which the Charter protects the beliefs and practices of other Aboriginal spiritual traditions. The appeal also addresses the proper way to characterize a section 35(1) Aboriginal right and the requirement of a decision-maker to consider the Charter when an affected party raises it prior to a decision.

Qat'muk is the Ktunaxa name of the lands in the central part of the Purcell Mountains that include the area of the proposed Jumbo Glacier Resort. It is within the core of the territory of the Ktunaxa Nation. For the Ktunaxa Nation, it is the home of Grizzly Bear Spirit and thus, must be carefully protected. For the Ktunaxa, Qat'muk's importance for Grizzly Bear Spirit is inextricably interlinked with its importance for living grizzly bears now and in the future. Grizzly Bear Spirit is a unique and indispensable source of collective as well as individual guidance, strength, and protection.

For more information on Qat'muk, or to read the Qat'muk Declaration, please visit www.qatmuk.com.