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NUU-CHAH-NULTH CELEBRATE FISHERIES DECISION

VANCOUVER – Aboriginal groups are celebrating a major legal victory after BC Supreme Court Justice Nicole Garson ruled the Nuu-chah-nulth First Nations have an Aboriginal right to harvest and sell all species of fish found within their territories.

“At contact, the Nuu-chah-nulth were overwhelmingly a fishing people,” wrote Mme Justice Garson in her 307-page judgement. “They depended almost entirely on their harvest of the resources of the ocean and rivers to sustain themselves,” she wrote, adding Nuu-chah-nulth people were able to prove a long history of trading and selling fisheries resources.

After more than a decade of legal preparations and 123 days in court, the Nuu-chah-nulth Nations involved in the case against Canada and British Columbia are pleased with the outcome.

“Today this decision confirms what we’ve known all along. We have been stewards of our ocean resources for hundreds of generations, and the Government of Canada was wrong to push us aside in their attempts to prohibit our access to the sea resources our people depend upon,” said NTC President Cliff Atleo Sr.

Since time immemorial, Nuu-chah-nulth people have built their societies, economies, and culture around fishing. After Confederation, Canada encouraged the Nuu-chah-nulth to remain fishing people by allocating small fishing stations as reserves while denying the larger land claims of the Nuu-chah-nulth. Over one hundred years of regulations by Canada have diminished Nuu-chah-nulth participation in the West Coast fishery.

Attempts to reach negotiated settlements through the treaty process produced few results. In June of 2003, Nuu-chah-nulth plaintiff Nations filed a Writ of Summons against Canada and British Columbia seeking reconciliation.

and reaffirms our constitutionally-protected Aboriginal Rights for all Indigenous Peoples. Rather than appeal such a progressive court decision, we encourage the federal government to enjoin with the Nuu-chah-nulth Tribal Council to enter into good-faith negotiations to implement this profound decision."

First Nations will now be taking time to review and discuss the implications of this decision.

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Backgrounder

The Nuu-chah-nulth Quest For Reconciliation

Who is involved?

Nuu-chah-nulth Nations are involved in the Fisheries Litigation against Canada and British Columbia as part of a continuous effort to have their rights and title to sea resources recognized, respected, and implemented. Five Nations proceeded in Phase One of the trial, which concluded with closing summaries in March of 2009.

What is this case about?

The claims of the Nations are based on Aboriginal rights to harvest and sell sea resources, Aboriginal title to fishing territories and fishing sites, and the unique obligations of the Crown arising through the reserve-creation process.

Since time immemorial, Nuu-chah-nulth people have built their societies around fishing. However, over one hundred years of regulations by Canada diminished Nuu-chah-nulth access to their sea resources, forcing them out of the West Coast fishery.

When attempts to reach negotiated settlements through treaties produced few results, Nuu-chah-nulth Nations filed a Writ of Summons against Canada and British Columbia seeking reconciliation.

Why is the case important?

Through the trial, Nuu-chah-nulth Nations are trying to reconcile cultural and Aboriginal rights to the sea resources with the interests of others in the fishery. The Nuu-chah-nulth Nations believe that reconciliation must start with rights recognition. Judicial determination constitutes a major step in the reconciliation process.

What do the Nations want?

The Nations want to fish and help sustain their communities by fishing. Through the Fisheries Litigation, they want to see their rights recognized, particularly their right to fish commercially. Nuu-chah-nulth Nations understand there will continue to be a fisheries regime on the west coast of Vancouver Island. They want a fair share of the resources to provide for families and future generations.

Litigation Timeline of Events:

1995 to present: Nuu-chah-nulth Nations try to negotiate a fair fisheries settlement through the B.C. Treaty negotiations process.

June 13, 2003: Nuu-chah-nulth Fisheries Litigation Writ of Summons is filed.

December 16, 2003: Statement of Claim filed.

April 2005: The government of Canada files its statement of defence.

December 2005: The government of B.C. files its statement of defence.

April 24, 2006: First day of trial in Vancouver.

May 1-3, 2006: Trial held in Ahousaht, within Nuu-chah-nulth territory.

May 16, 2006: Trial adjourned by prior agreement of Nuu-chah-nulth, Canada, and B.C.

July 31, 2007: Court rules in response to motion from Canada that only Nations without overlapping title areas can proceed in next phase of trial.

November 20, 2007: Deadline to resolve overlapping title areas. Nations meeting the criteria proceed in phase one of the trial.

December 19, 2007: Amended Statement of Claim filed. Court order permitting Nations to proceed together in the first phase and severing the claims of other Nations to the second phase.

February 4, 2008: Trial resumes in Vancouver for Nations in Phase One.

June 4, 2008: Nuu-chah-nulth Nations conclude presentation of case.

June 16, 2008: Canada begins defence.

November 21, 2008: Evidence part of the trial concludes.

January 21, 2009: Nuu-chah-nulth Nations submit written argument to Canada and B.C.

March 9, 2009: Trial resumes with oral submissions by the three parties.

March 25, 2009: Nuu-chah-nulth Nations and Canada conclude oral submissions. The case goes to the Judge for her deliberation and decision.

November 3, 2009: Mme. Justice Nicole Garson's BC Supreme Court decision in Ahousaht et al versus AG Canada et al (SO33335) released.

"We are an ocean people. Our lives as a people were totally dependent on the ocean."
--Lillian Howard, Mowchaht/Muchalaht First Nation

"...We had a government before you came...We had a government that was able to look after our resources the way they needed to be looked after. And we want to continue to do that. We just want to continue to be independent."
--John Frank, Ahousaht First Nation