

OUR LAND IS OUR FUTURE

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NEWS RELEASE

Canada's Application for Judicial Review "Shameful"; UBCIC Demands Its Withdrawal

(Coast Salish Territory/Vancouver, B.C. – January 17, 2017) Last week, Canada applied for judicial review of the Specific Claims Tribunal's decision regarding compensation awarded in the Huu-ay-aht First Nation logging rights case. Today, UBCIC calls on Canada to withdraw this application, which is an insult to the Huu-ay-aht First Nation, an attack on the authority and independence of the Tribunal, and a repudiation of the most basic principles of reconciliation.

In this new application, Canada continues to advance the same reprehensible position it used in the Tribunal case, arguing that the Huu-ay-aht Nation deserves much less compensation because the community was very poor at the time when the government was illegally selling timber from its lands and, as such, would have spent the forestry income on "non-durables" such as food and medicine. In his decision, Tribunal judge Justice W.L. Whalen rejected Canada's argument and called attention to the need for a "more complete justice based on conscience."

UBCIC President Grand Chief Stewart Phillip observed, "Canada contributed to the poverty of the Huu-ay-aht by allowing the illegal sale of their timber and now argues that, because they were impoverished, they should not be properly compensated. By applying for this judicial review, Canada continues to arrogantly demonstrate its despicable abuse of power and breach of fiduciary duty. Canada is inappropriately and unethically using judicial reviews to try to avoid taking responsibility for its historic wrongdoings. It is shameful. Canada must immediately withdraw this application."

UBCIC has repeatedly called on Justice Minister and Attorney General Jody Wilson-Raybould to honour the Tribunal's decisions. As Regional Chief for the BC Assembly of First Nations, Wilson-Raybould stated strongly that – in the spirit of reconciliation – Canada should let Tribunal decisions stand because they are "fair and transparent." In a complete reversal, Minister Wilson-Raybould has sent a number of these decisions for review.

"The Minister fully understands why Canada needs to honour the Tribunal's decisions, yet she chooses to go against her own words," continued Phillip. "Taking an action like this against one Nation signals Canada's unwillingness to pursue reconciliation with Indigenous Nations, despite the Prime Minister's promises."

Canada's past attempts to undermine Tribunal decisions via judicial review have led to protracted and costly legal battles. In 2014, the Federal Court of Appeal overturned Canada's application for review of the Kitselas

village site claim. Another case, involving the Williams Lake Indian Band, is headed to the Supreme Court of Canada this year. With this most recent application, Canada has opted yet again to engage in an expensive legal dispute with an Indigenous Nation. These cases impose huge cost burdens on Indigenous Nations, who must participate in order to resolve the claim but receive no funding to do so.

“Canada, who has all the resources, continues to exploit the same imbalance of power that first gave rise to this claim almost seventy years ago,” Phillip concluded. “Unless Canada withdraws this application, it will again be choosing denial, conflict, and litigation over fair process, resolution, and upholding the Honour of the Crown.”

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