

OUR LAND IS OUR FUTURE

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UNION OF B.C. INDIAN CHIEFS CHIEFS COUNCIL

JUNE 27TH TO 28TH, 2018

RICHMOND, B.C., X^wMƏƏK^wƏYƏM (MUSQUEAM TERRITORY)

Resolution no. 2018-24

RE: Support for Intervention in *Ahousaht Nation v. Canada*

WHEREAS in 2009, five Nations (Ahousaht, Ehattesaht/Chinekintaht, Hesquiaht, Tla-o-qui-aht, Mowachaht/Muchalaht) won a major court victory when the BC Supreme Court recognized and formally declared that the Nations have the right to fish for any species of fisheries resources in their territories and sell that fish into the commercial marketplace;

WHEREAS in 2018, Canada used a justification trial to persuade the Court that it should redefine the proven right to something much narrower;

WHEREAS in 2018, three commercial and recreational fishing industry groups successfully applied to intervene in the justification trial and supported Canada's efforts to narrow the proven right and to remove certain species from it. They also argued that Canada could not accommodate the proven right without involving industry groups in the negotiations;

WHEREAS the *United Nations Declaration on the Right of Indigenous Peoples*, which the government of Canada has adopted without qualification, and has, alongside the government of BC, committed to implement, affirms:

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 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;

WHEREAS the five Nations are seeking support from First Nations leadership, including from the UBCIC Chiefs Council, to develop a First Nations coalition to intervene in support of the five Nations who are appealing the justification decision; and

WHEREAS the justification decision has significant implications for all First Nations. It is the first time that a court has expansively considered the application of the justification test to a broad-based proven right and, if left in place after appeals, would govern all future justification cases.

THEREFORE BE IT RESOLVED the UBCIC Chiefs Council fully supports the five Nations (Ahousaht, Ehattesaht/Chinekintaht, Hesquiaht, Tla-o-qui-aht, Mowachaht/Muchalaht) in their appeal of the justification decision in *Ahousaht v. Canada*;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council directs the UBCIC Executive to seek resources in order to apply for Intervenor Status in the appeal by the five Nations; and

THEREFORE BE IT FINALLY RESOLVED the UBCIC Chiefs Council directs the UBCIC Executive to coordinate support for any First Nations to collectively join the appeal as intervenors in support of the five Nations, subject to resources.

Moved: Chief Mark Point, Skowkale First Nation
Seconded: Chief Clifford White, Gitxaala Nation
Disposition: Carried
Date: June 27, 2018