

OUR LAND IS OUR FUTURE

UNION OF BRITISH COLUMBIA INDIAN CHIEFS

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News Release

30 August 2018

UBCIC Celebrates Landmark Court Win that Signals the End of Trans Mountain Pipeline and Tanker Project

(Coast Salish Territory/Vancouver, B.C. – 30 August 2018) The Union of BC Indian Chiefs (UBCIC) is celebrating the Federal Court of Appeal verdict on the Trans Mountain approval and calls on Prime Minister Trudeau to immediately stop construction and shut the project down.

The UBCIC congratulates the following litigants: Tsleil-Waututh Nation; Squamish Nation; Coldwater Indian Band; Aitchelitz, Skowkale Shxw:ay Village, Soow Ahlie, Squiala First Nation, Tzeachten, Yakwekwioose, Skwah, Kwaw-Kwaw-Aplit & Ts'elxweyeqw Tribe et al (Sto:lo); Upper Nicola Band; and Stk'emlupsemc Te Secwepemc, Living Oceans, Raincoast Conservation Society, represented by Ecojustice and the cities of Vancouver and Burnaby and the province of British Columbia.

“Canada is buying Kinder Morgan’s assets for a dirty fossil fuel expansion that just got quashed and is left the owner of an antiquated pipeline in need of repairs. This verdict is one in a long line of recent Canadian court decisions that carve out the new legal space around Indigenous Title and the Rights that derive from them, for which we’ve been fighting relentlessly— and winning— for decades,” stated **Grand Chief Stewart Phillip, President of the UBCIC**. “Smothered by choking wildfire smoke this summer, we’ve experienced a taste of what climate change is bringing. This environmentally destructive project should never have been approved and the Trudeau Government must stop construction immediately.”

“This is a major win with impacts that will be felt across the country. Our wild salmon and the orcas that they support are critically under threat. The increased tanker traffic that the TMX project proposes is entirely unacceptable” said **Chief Bob Chamberlin, Vice-President of the UBCIC**. “Risking the lands and waters of Nations along the pipeline and tanker route without their consent

should have doomed this project from the get go. The project should never have been approved, and we are greatly encouraged that the Federal Court of Appeal has recognized the need for Canada to uphold Indigenous Title and Rights on projects on their territories, and fulfil their commitments to true reconciliation.”

Chief Judy Wilson, Secretary-Treasurer of the UBCIC stated “On June 30, 2016, the approval of Enbridge’s Northern Gateway was overturned by the Federal Court of Appeal because of the lack of meaningful consultation with First Nations. On October 5, 2017, TransCanada canceled Energy East. On August 30, 2018, the approval of Kinder Morgan’s Trans Mountain was quashed by the court, respecting Indigenous Title and Rights. Justin Trudeau told oil executives in Texas “No country would find 173 billion barrels of oil in the ground and leave them there,” but to survive as a species, we must. This is a hopeful day for the world. No decision should be made about resource development in Canada without the free, prior and informed consent of the proper title holders.”

Opposition to the Trans Mountain pipeline and tanker project includes the Province of British Columbia, the state of Washington, the cities of Burnaby, Victoria, Vancouver and 19 other municipalities, more than 350,000 petition signers, and 25,000 people who have vowed to do “whatever it takes” to stop the pipeline.

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FOR INTERVIEW AFTER 10:00 A.M.:

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BACKGROUND - IMPORTANT LEGAL DECISIONS ON INDIGENOUS TITLE AND RIGHTS

[*Delgamuukw v British Columbia*, \[1997\] 3 S.C.R. 1010](#): Supreme Court of Canada sets precedent for Indigenous rights and the use of oral testimony in Canadian courts: "containing its first definitive statement on the content of Aboriginal title in Canada." The ruling also described the "scope of protection afforded Aboriginal title under the Constitution Act, 1982" as well as defining "how Aboriginal title may be proved." It also outlined the "justification test for infringements of Aboriginal title."

[*Tsilhqot'in Nation v. British Columbia*, 2014](#) - Supreme Court of Canada rules that Tsilhqot'in First Nation has Indigenous Title to more than 1,700 square kilometres of land in British Columbia, the

first time the court made such a ruling regarding Indigenous land. The unanimous 8-0 decision resolved many important legal questions, such as how to determine Indigenous Title and whether provincial laws apply to those lands.

United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP):

November 2010, Canada issued a [Statement of Support](#) endorsing the principles of the *United Nations Declaration on the Rights of Indigenous Peoples*. In **November 2015**, the Prime Minister of Canada asked the Minister of Indigenous and Northern Affairs and other ministers, in the [mandate letters](#), to implement the declaration. **In May 2016, the Minister of Indigenous and Northern Affairs [announced](#) Canada was now a full supporter, without qualification, of the declaration.**

The United Nations Declaration on the Rights of Indigenous Peoples describes both individual and collective rights of Indigenous peoples around the world. It offers guidance on cooperative relationships with Indigenous peoples to states, the United Nations, and other international organizations based on the principles of equality, partnership, good faith and mutual respect. It addresses the rights of Indigenous peoples on issues such as: culture; identity; religion; language; health; education; community ([full text of the 2007 declaration](#)).

[Gitxaala Nation v. Canada, \[2016\] 4 FCR 418, 2016 FCA 187 \(CanLII\)](#)

Federal Court of Appeal quashed the June 2014 Order in Council that required the NEB to issue Certificates of Public Convenience and Necessity for the Northern Gateway Project, by a 2-to-1 majority. All of the administrative law challenges and a majority of the consultation challenges were rejected but the court concluded that the approval should be quashed on the grounds that Canada had not discharged its duty to consult Indigenous groups. ([Read more](#))