

OUR LAND IS OUR FUTURE

UNION OF BRITISH COLUMBIA INDIAN CHIEFS

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News Release

July 19, 2021

UBCIC Celebrates Lac Seul First Nation's Victory as Supreme Court of Canada Orders Canada to pay Equitable Compensation for Historical Losses

((X^wməθk^wəy^əm (Musqueam), Sk^wxwú7mesh (Squamish) and səliłwətał (Tseil-Waututh)/Vancouver, B.C. – July 19, 2021).

(Coast Salish Territory/Vancouver, BC – July 19, 2021.) The Union of BC Indian Chiefs (UBCIC) extends our warmest congratulations to the Lac Seul First Nation (LSFN) in achieving justice for the flooding of their reserve lands before the Supreme Court of Canada after decades of struggle. This decision will fundamentally change the basis on which First Nations are entitled to compensation for Canada's breaches of its lawful obligations.

In 1929, Canada, Manitoba and Ontario's construction of a hydroelectric dam flooded over 11,000 acres of LSFN's reserve. Canada did not seek LSFN's consent to flood the lands or expropriate them under the *Indian Act*, and has never adequately compensated LSFN for what the Court recognized as egregious actions by Canada.

The Supreme Court of Canada confirmed that Canada must seek a surrender from First Nations and First Nations must be fairly compensated based on the highest value of the lands, including the value of the proposed development. The Supreme Court of Canada confirmed that equitable compensation must reflect the value of the lost lands from the Indigenous perspective. It clarified that Canada's fiduciary obligations to First Nations are not superseded by projects in the "public interest"; rather, the value of the lands for the public interest project must inform the amount of compensation awarded to the Nation. The Supreme Court of Canada was very clear that equitable compensation must uphold the honour of the Crown and reconciliation.

Grand Chief Stewart Phillip, UBCIC President stated, “While we remain disgusted with Canada’s continued resistance to acting honourably unless forced to by the courts, we are overjoyed to celebrate Lac Seul First Nation’s victory - the highest court of Canada has clearly upheld Canada’s obligations to fairly and equitably compensate First Nations for its unlawful and egregious historic breaches. The Court is clear that Canada must now be held responsible for these historic wrongs and compensate First Nations in a manner that upholds the honour of the Crown and reconciliation going forward. With the recent passage of Bill C-15, the decision is a strong reminder that Canada must ensure all its actions are consistent with the *United Nations Declaration on the Rights of Indigenous Peoples*, especially the duty to uphold the requirement of free, prior and informed consent of the First Nation prior to interfering with traditional territories.”

Central to the case was the unique and important relationship between First Nations and their lands, especially reserve lands. The Court recognized the cultural, spiritual, and economic significance of LSFN’s reserve, acknowledging that it sustained LSFN’s way of life as part of the promise of Treaty 3. When a Nation is considering whether to consent to a surrender of reserve lands, it will consider what it is giving up and the impact of the surrender on their community. Even in situations where Canada has the power to expropriate reserve lands without consent, the Court held that Canada must first seek a surrender and must consider the value of the land from the Nation’s perspective and the impact that the taking will have on the community.

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UBCIC is an NGO in Special Consultative Status with the Economic and Social Council of the United Nations.

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