



OKANAGAN NATION ALLIANCE

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AFTER YEARS OF MANOEUVRES BY B.C. GOVERNMENT, CROWN'S CASE TOSSED BY COURT CLEARS THE WAY FOR A CONSTITUTIONAL CHALLENGE TO THE PROVINCE'S AUTHORITY OVER FORESTED LAND

October 24, 2011

For Immediate Release (Okanagan Territory)

In an unexpected pre-emptive legal move, the Okanagan Nation succeeded on Friday in B.C.'s Supreme Court, in having the Province's claim dismissed, clearing the way for litigation to proceed to answer the land question: how did the Province get the title and authority it claims to the forested land in the Province in the absence of treaty? Ancestors from Indigenous Nations clear across the Province have asked this question for a century. The answer to this question is urgently needed by everyone.

Under the Province's forestry legislation, the Province requires that a person must obtain Provincial authorization to harvest "Crown timber". In 1999, communities from the Okanagan and Secwepemc Nations were granted permits from their respective Tribal Councils to harvest trees in accordance with their laws, and the Okanagan Indian Band, under permit issued by the Okanagan Nation Alliance, commenced logging in the Browns Creek Watersheds - an area close to their village at six-mile located south of the Head of the Lake. The Province commenced a Court case to enforce its Stop Work Order. In response, the Nations filed a constitutional challenge to the Province's legislation.

"The land question, and our efforts as Okanagan to have our Aboriginal title and obligation to make decisions to protect our territories and resources, is what this case is about from an Okanagan perspective. It is a conflict between the Okanagan Nation's ability to exercise our laws to make decisions about our Aboriginal title lands and the Province's authority to deny our right to exercise Aboriginal title", said Dan Wilson, who was Chief of the Okanagan Nation in 1999.

Grand Chief Stewart Phillip said, "The Province of B.C. is in the awkward position of having to show how they came into title of Okanagan land and of course they've got nothing, no deed, no bill of sale and no treaty."

"The occupation of land for well over a century under the guise of an unfounded claim of title is neither noble nor heroic. It is simply the act of State sanctioned theft on grand scale and nothing more. The Province does not own our territory - they use it - and sooner or later, the courts in the absence of any meaningful negotiations will have no choice but to recognize that fundamental fact", concluded Chief Byron Louis, of the Okanagan Indian Band.



Members of OKIB depend on the Watersheds to teach and practice their culture. Yet, the Province has assumed exclusive jurisdiction to manage and allocate the timber over the objections of the Okanagan.

“This is a case which should be of concern to everyone living within our traditional territory”, said Chief Louis. Forty years of industrial logging within the Okanagan Watersheds has affected water quality for native and non-native residents alike. As stewards of the land we will ensure the healing of the forests and the restoration of the creeks that feed our lakes. This in turn will improve the quality of life for all residents of the Okanagan territory.”

In dismissing the Province’s claim, the Court encouraged the parties to negotiate. Chief Louis pointed out that the Province will need to change its negotiation mandates to recognize and respect the title, rights and laws of the Okanagan people. Only through recognition can reconciliation be achieved. “If the Government does not recognize our pre-existing rights in our land and our laws, what is there to reconcile?”

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